

# MANUAL ON human rights MONITORING

## Chapter 14

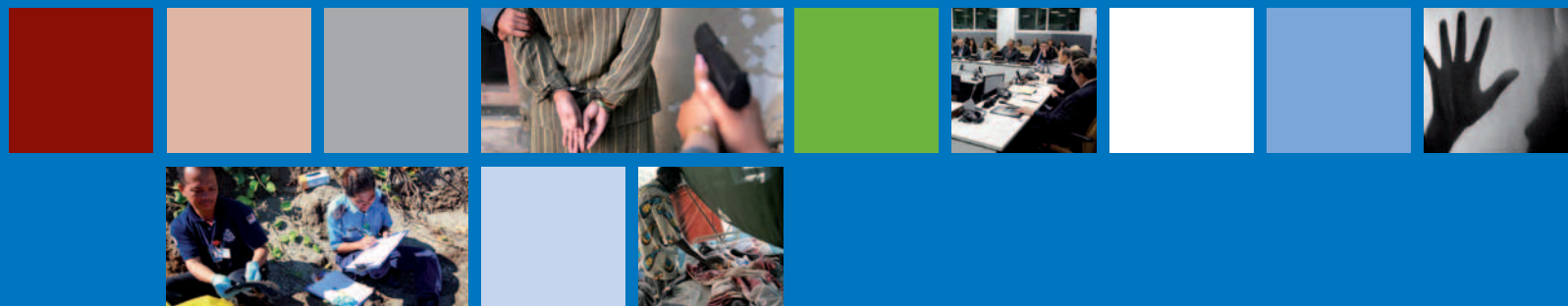
# PROTECTION OF VICTIMS, WITNESSES AND OTHER COOPERATING PERSONS

Chapter 14 Protection of victims, witnesses and other cooperating persons

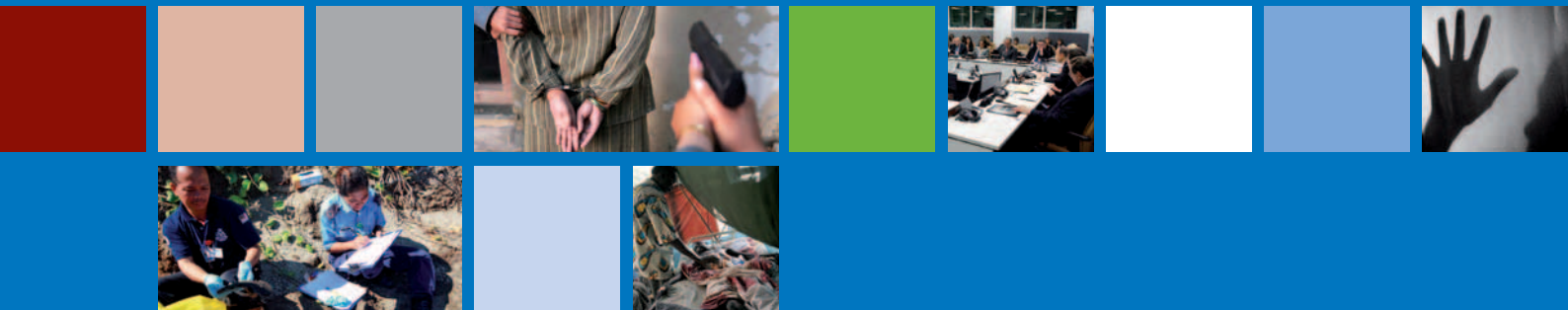


UNITED NATIONS  
**HUMAN RIGHTS**  
OFFICE OF THE HIGH COMMISSIONER

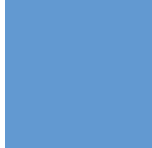
# PROTECTION OF VICTIMS, WITNESSES AND OTHER COOPERATING PERSONS



<b>A. Key concepts</b>	<b>4</b>
<b>B. Introduction</b>	<b>5</b>
<b>C. Guiding principles</b>	<b>7</b>
1. Respect for confidentiality	7
2. Do no harm	8
3. Do not raise expectations	9
4. Participatory assessment	9
5. Know the local context	9
6. Regular risk assessment and review of monitoring objectives	10
<b>D. Preventive measures</b>	<b>11</b>
1. Planning	11
2. Prioritizing among contacts	12
3. Initial contact	13
4. Using discretion or visibility	15
5. Minimizing exposure	15
6. Organizing and conducting interviews	16
7. Visits to places of detention	18
8. Regular monitoring	19
9. Establishing a protection team	20
<b>E. Protection of national staff</b>	<b>21</b>
1. Involvement of national staff in human rights monitoring	22
2. Protection of interpreters	22
3. Recruitment of national staff	23



<b>F. Protection of information</b>	<b>25</b>
1. Safe recording of information	25
2. Safe storage and handling of information	26
<b>G. Responding to protection concerns</b>	<b>29</b>
1. Risk and threat assessment	29
2. Devising a protection strategy	32
3. Supporting self-protection strategies	33
4. Engaging with the national authorities	34
5. Engaging with non-State armed groups	37
6. Strengthening civil society networks	38
7. Cooperation with non-governmental organizations	39
8. Cooperation with diplomatic missions	40
9. Cooperation with United Nations agencies	41
10. The United Nations Voluntary Fund for Victims of Torture	42
11. Protection within peace operations	43
12. Shelter on United Nations premises	44
13. Protection in national judicial proceedings	45
14. Action by special procedures	48
15. Annual report on cooperation with United Nations human rights bodies	51
16. Relocation	51



## A. Key concepts



- The primary responsibility for protecting victims, witnesses, sources of information and other persons cooperating with human rights field presences and other international human rights monitoring mechanisms rests with the State.
- The protection of victims, witnesses and other cooperating persons is an integral aspect of all phases of the monitoring cycle, from the gathering of information and interviewing through to reporting and advocacy for corrective action.
- Prevention is key in protecting victims, witnesses and other cooperating persons. At a minimum, it requires respecting fundamental principles and methods of work, which enable human rights officers (HROs) to undertake human rights monitoring and fact-finding activities in a manner that does not jeopardize the safety of those who come in contact with them. Where there is a risk, it must be carefully assessed and weighed against the expected benefits of the activity in question.
- There is no single correct approach to protection. The appropriate protection strategy will depend on the political and security environments, the commitment of the national authorities, the national witness protection framework, and the capacity and resources of the field presence, among other contextual factors.
- To better protect a cooperating person at risk, HROs should focus their efforts on decreasing the level of risk by, on the one hand, reducing the threat and the vulnerability factors and, on the other, increasing protection capacities. HROs should aim at strengthening the position of the person at risk and weakening that of the source of the threat.
- HROs may respond to protection concerns by taking measures at the national and international levels, such as strengthening local protection networks, engaging with the national authorities, intervening with the source of the threat and transmitting concerns to international human rights mechanisms. Relocation should be considered only as a last resort.
- The United Nations Human Rights Council has urged States to prevent and refrain from all acts of intimidation or reprisals against those who have provided testimony or other information about human rights violations to the United Nations.<sup>1</sup>

<sup>1</sup> Resolution 12/2, para. 1.

## B. Introduction

This chapter is intended to provide practical guidance on the protection of persons who come into contact with HROs in the context of human rights monitoring and fact-finding activities (hereinafter: cooperating persons), and who may face threats or be subjected to reprisals as a result of that interaction. The focus of this chapter, and of the *Manual*, is on activities carried out by HROs working in human rights field presences. However, it is important to note that the principles and many of the approaches described in the chapter may also apply, *mutatis mutandis*, to the work of other international human rights monitoring mechanisms, including special procedures of the United Nations Human Rights Council, international commissions of inquiry, fact-finding missions and country visits by the human rights treaty bodies.

For the purposes of this chapter, **persons cooperating with human rights field presences** may be:

- Victims, witnesses and sources of information on human rights violations;<sup>2</sup>
- Persons providing assistance to HROs in the course of their human rights monitoring and fact-finding activities, such as human rights defenders or staff from local civil society organizations;
- Employees of the field presence, including national human rights officers and assistants, interpreters, drivers and other national staff;<sup>3</sup> and
- Persons who are at risk by virtue of their association with a person belonging to any of the groups described above, such as family members or friends.

In this context, **protection** refers to the application of all measures that can contribute to preventing or minimizing the risk of harm and/or reduce any threats that can jeopardize the life or physical integrity of cooperating persons and/or stop harm being inflicted on them. Protective measures include both measures taken to prevent placing a cooperating person at risk (preventive) and those taken when such a person faces a threat or is subjected to reprisals (response).

Ensuring protection is a shared responsibility of:

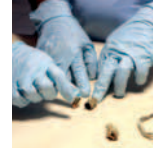
- The duty bearers, primarily States and armed groups, which have the obligation to respect, protect and fulfil human rights norms and standards;
- The victims, witnesses and other cooperating persons, who may face threats or be subjected to reprisals; and
- Those who can positively or negatively influence the safety and well-being of cooperating persons at risk, and directly or indirectly strengthen their protection (e.g., field presences, human rights mechanisms, diplomatic missions, multilateral institutions, non-governmental organizations (NGOs)).<sup>4</sup>

**State responsibility to protect:** the State bears the primary responsibility for protecting the rights of all persons under its jurisdiction. Therefore, any victim, witness or other person cooperating with a field

2 For the purposes of this chapter, a victim is a person who has suffered some type of harm (e.g., physical, psychological or loss of property) as a result of a human rights violation. A witness is a person who, being present when a human rights violation occurred, personally sees, hears or otherwise perceives it through direct experience. Victims and witnesses of human rights violations are considered primary sources. A source is a person who is in a position to provide secondary information, including contextual information, about a human rights violation, but who did not suffer, did not directly experience or was not present when it occurred.

3 National staff, who play a crucial role in the work of field presences, are more vulnerable to risk along with their network of family and friends. See sect. E below.

4 Enriquet Eguren, *Protection Manual for Human Rights Defenders* (Dublin, Front Line, 2005), p. 13.



presence has the right to be protected from threats and reprisals, and to have his or her inherent dignity respected at all times. Any person whose rights are violated must be able to obtain redress through competent national judicial, administrative or legislative authorities.

When a State is unable or unwilling to protect its population against a situation of violence that threatens the life and security of its members, or is the perpetrator of that violence, the protection of the population may become a shared responsibility. This responsibility may be assumed, in part or in whole, by the international community, in partnership with that State, alone or sometimes against it, within the limits of internationally agreed safeguards.<sup>5</sup>

**Individual responsibility for self-protection:** in many instances, individuals make their own choices about which risks they believe are acceptable or unacceptable vis-à-vis the actions they consider important to take. Such an assessment is personal and evolves over time; it is mainly based on subjective perceptions, the ability to analyse the surrounding political, social and security environments, and estimates of the potential consequences.<sup>6</sup> If duty bearers and other actors have limited means to protect them effectively, it is essential for individuals to adopt strategies to prevent and/or minimize the risk of harm they may be exposed to in a given situation and primarily rely on themselves for their protection.

**Human rights officers' professional responsibility to do no harm:** the mere fact that a field presence is based in a country may affect public perception of safety and lead individuals to take actions they think are safe. However, they may miscalculate the risk and suffer harm as a result. HROs have an institutional and professional obligation not to put in jeopardy the life or security of cooperating persons and to assist in protecting them if they face threats or are subjected to reprisals for having cooperated with the field presence or for being suspected of having done so (see sect. C below).

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5 On certain occasions, particularly in periods of transition from one political regime to another, the United Nations has temporarily assumed the role of State institutions (e.g., East Timor (now Timor-Leste), 1999-2002).

6 Liam Mahony, *Proactive Presence: Field Strategies for Civilian Protection* (Centre for Humanitarian Dialogue, 2006), pp. 81-89.

## C. Guiding principles

### 1 Respect for confidentiality

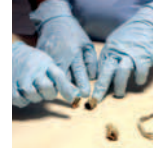
Respect for confidentiality is fundamental. Any breach of confidentiality can have serious consequences for the person providing the information or for those implicated, for the credibility and safety of HROs, for the confidence enjoyed by the field presence among the local population and for the effectiveness of its human rights work.

The field presence should have a clear policy on confidentiality, which should be widely disseminated to all HROs and support staff. The policy should include the following:

- All victims, witnesses and other persons cooperating with the field presence have to be informed of the policy on confidentiality before being requested to provide information on human rights incidents or cases of individuals facing threats or harm because of their interaction with HROs;<sup>7</sup>
- Confidentiality covers the **identity** of the cooperating person and the **information** provided (including audio and video recordings, photographs and other types of documentation), unless specific consent has been given for their use;
- Confidentiality with regard to individual protection cases also covers **information on the protective measures** taken, including any support given by partners external to the field presence to strengthen the protection of a person at risk. This is essential to guarantee the safety not only of the person who benefited from the measures, but also of others who may benefit from them in the future;
- Victims, witnesses and other cooperating persons have to give their **informed consent** for the use of the information they provided to the field presence. HROs have the obligation to make them fully aware of the potential implications of that decision for their safety and well-being. The consent has to be specific: e.g., consent to report information only internally within the field presences; to report information publicly with or without revealing the identity of the source; to transmit information to the United Nations special procedures or other human rights mechanisms; to raise the case with the authorities; or no consent to take action on the individual's behalf. When appropriate, consent needs to be sought to forward information to any competent prosecutorial authority (national or international) in the future;
- With regard to children, persons with disabilities or persons who may not be sufficiently familiar with such concepts as confidentiality and consent, special efforts should be made to ensure that the person understands these concepts and provides informed consent;
- Even if consent is granted to disclose information to a third party (e.g., national authorities or United Nations special procedures), HROs have the obligation to **assess the potential implications** of that action for the safety of the person providing the information and of those implicated. If there is a risk of endangering any of them, HROs should not disclose the information or should do it in a manner that removes the risk (e.g., providing information on a general pattern without revealing specific details).

<sup>7</sup> For the purpose of this chapter, we use the expression "individual protection case" to refer to any situation in which a victim, witness or other cooperating person faces threats and/or is subjected to reprisals or retaliation during and/or after interacting with HROs.





In all cases, confidentiality must be respected regardless of the conditions in which the information was obtained – whether confidentiality was explicitly requested by the cooperating person, was implied or was guaranteed, explicitly or otherwise. If the conditions under which the information was provided are unclear, the identity of the person and the information provided should be considered confidential until specific consent is given for the use of the information.

The safety of victims, witnesses and other cooperating persons must be a paramount concern for field presences and HROs. Accordingly, confidentiality as a measure to protect their safety, with the requirement of not disclosing their identity, should take precedence over other interests, including the prosecution of perpetrators of human rights violations. The principle of confidentiality also applies in the case of requests for information from the national authorities, national judicial proceedings or an international tribunal. HROs have to seek the explicit informed consent of victims, witnesses and other cooperating persons to forward information they provided or to reveal their identity if and when such a request is presented to the field presence.



## Sierra Leone

The United Nations received a request to waive the immunity of a former HRO who was called to testify before the Special Court for Sierra Leone. The High Commissioner for Human Rights presented a submission to the Court that confidentiality was vital to the work of OHCHR, which in turn was of fundamental importance to international peace and security, the rule of law and the administration of justice. The High Commissioner argued that the privilege contained in the Court's Rules of Procedure and Evidence, stating that "the Trial Chamber may not compel the witness to answer any question the witness declines to answer on grounds of confidentiality", should apply in all cases in which an HRO is required to appear before the Court. The High Commissioner also raised concerns about the safety of the HRO if the person was required to testify in open court and the person's identity became known. The Court accepted that the testimony of the HRO could be given in closed session and that the person should not be compelled to provide information considered confidential.

*Source: Prosecutor v. Brima, Kamara and Kanu, case No. SCSL-2004-16-AR73, Appeals Chamber, Decision on Prosecution Appeal against Decision on Oral Application for Witness TF1-150 to Testify without Being Compelled to Answer Questions on Grounds of Confidentiality, 26 May 2006.*

## 2 Do no harm

In all circumstances and at all times, HROs have an obligation not to jeopardize the life, safety, freedom and well-being of victims, witnesses and other cooperating persons. The best protection HROs can provide to cooperating persons is to be aware of the potential risks of harm and to exercise good judgement, caution and sensitivity in all their interactions. Human rights officers' lack of care or negligent behaviour, along with a failure to understand the operational context, can put persons who come into contact with the field presence at risk of harm.



While undertaking human rights work, HROs have the responsibility to balance the need to gather information and the potential risk of harm to those who may provide such information. They should always assess whether it is necessary to establish contact with a person who may be placed at risk as a result of that contact. Contact should not be attempted if HROs determine that they will not be able to ensure the safety of a cooperating person, if the risk of harm is too high or if HROs do not have sufficient information to make an informed determination on the level of risk.



### Do no harm

When visiting the site of a large-scale human rights incident, HROs decided not to interview witnesses or sources. They had to explain to those who approached them that they could not speak with them because they feared that would expose them to further security risks.

### 3 Do not raise expectations

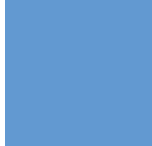
HROs should never make promises that they cannot keep. They need to be aware of what they can effectively do, and not do, to avoid putting cooperating persons at risk or to ensure their protection. Upon establishing contact and before proceeding with the gathering of information, HROs have to inform victims, witnesses and other cooperating persons of the limitations of the field presence in guaranteeing their protection. Cooperating persons need to take this into account when deciding whether or not they want to continue being in contact with HROs.

### 4 Participatory assessment

Victims, witnesses and other cooperating persons are often their own best protectors. They are acutely aware of their security environment and the threats they face, or may be facing, for establishing contact with the field presence. In other cases, however, cooperating persons may not be able to make such a sound judgement because they are overconfident, are in denial or underestimate a particular situation, or simply because they lack information. In any event, HROs must follow a participatory approach to protection by taking into account the knowledge and views of cooperating persons and by involving them in the risk and threat assessment and the choice of measures to be taken to ensure their safety.

### 5 Know the local context

HROs need to know and understand the local, regional and national context of the country in which they operate, because protection is context-based and context-specific. There is neither a blueprint nor a single correct approach to dealing with protection concerns or to improving the safety of victims, witnesses and other cooperating persons. The appropriate protection strategy will depend on the political and security environments, the commitment of the national authorities, the national witness protection framework, and the capacity and resources of the field presence, among other contextual factors.



## **6** Regular risk assessment and review of monitoring objectives


HROs should assess the level of threat and risk of harm to victims, witnesses and other cooperating persons before, during and after establishing contact with them. They need to be aware that certain situations, particularly where there is conflict, can evolve quite suddenly and unexpectedly. It is therefore essential for them to regularly gather relevant information (see previous subsection) that can affect the safety and well-being of cooperating persons. They should review and adjust their human rights monitoring objectives and protection strategies based on this regular assessment.

## D. Preventive measures

Prevention is key in the protection of victims, witnesses and other persons cooperating with the field presence. It involves respecting fundamental principles and methods of work which enable HROs to undertake human rights monitoring and fact-finding activities in a manner that does not jeopardize the safety of those who come in contact with them. Preventive measures should be taken **throughout** the monitoring cycle but in particular when gathering information. It is in this phase that cooperating persons may be more easily exposed to risk.

### 1 Planning

In the context of a human rights monitoring or fact-finding strategy, the planning phase entails determining what information needs to be gathered, where, how and from whom. HROs should carefully plan the information gathering process, particularly when deciding to establish contact with victims, witnesses or other sources and proceeding with interviews. This phase requires HROs to constantly balance the potential risk of harm to cooperating persons against the expected benefits of the activity in question, and review and adjust human rights monitoring objectives and methodology accordingly.

Properly planning monitoring activities requires HROs to have an understanding of the national, regional and local context in which the field presence operates. Contextual information will make them aware of the political, social and cultural dimensions, and of the key actors in the country that may have a positive or negative impact on the safety and well-being of victims, witnesses and other cooperating persons (see chapter on *Gathering contextual information* ).

Another important element to consider is the capacity and commitment of the national authorities, or other duty bearers, to not only respect their human rights obligations, but also properly respond to any protection concerns that may arise from the interaction of HROs with victims or witnesses. It is also useful to be aware of any existing resources at the community level, such as local protection networks, which may be able to provide advice and assistance to HROs when establishing contact with victims, witnesses or other sources of information, and/or support the latter if they face threats or are subjected to reprisals.

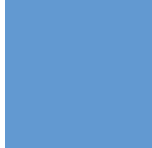
In the planning phase, it is particularly important to consider:

#### (a) *The victims, witnesses and sources to contact*

- Who should be prioritized during the information gathering process?
- Is the victim, witness or source to be contacted vulnerable or part of a group with special needs (e.g., a child, a person with disabilities, a detainee)?
- Is the victim, witness or source accessible?
- Is there a need for interpretation?

#### (b) *The risk of harm*

- Is the victim, witness or source likely to face threats or be subjected to reprisals?
- What are the security and/or vulnerability factors that may expose him or her to risk of harm?
- Is there a history of intimidation?



- What is the capacity and/or commitment of the duty bearers to respond to protection concerns?
- Can preventive or protective measures be taken to minimize the risk of harm?
- Can the information likely to be gathered from the victim, witness or source be obtained elsewhere?
- What self-protection measures is the victim, witness or source able to take?


#### (c) *The initial contact*

- What is the most appropriate and safest method to establish contact with the victim, witness or source?
- Should contact be established directly or through a third party/intermediary?
- Should interaction with the victim, witness or source be visible or discreet?

#### (d) *The interview and follow-up*

- Where will the interview take place?
- Can the venue guarantee confidentiality?
- Is it possible to maintain regular contact with the victim, witness or source after the interview?

## 2 Prioritizing among contacts

When deciding whom to contact/interview, HROs should prioritize the victims, witnesses or sources that are likely to provide relevant information to fulfil the monitoring objective and, particularly, those who are likely to be accessible. The fact that victims, witnesses or sources may be part of a group with special needs should also be taken into account. Children, victims of sexual violence, internally displaced persons and, in some contexts, women or rural populations, among others, require particular skills and additional preparation on the part of HROs (see chapter on *Interviewing* ). HROs should assess, in consultation with experts as needed, whether it is appropriate and necessary for children, persons with disabilities or victims of sexual violence to have parents, guardians or other persons present (not necessarily in the same room) to provide emotional support and a sense of security.

First, HROs have to determine if it is possible to establish contact with the identified victims, witnesses or sources, based, on the one hand, on the field presence's human and material resources and, on the other, on the security conditions and physical accessibility of their location. For example, HROs may have the required vehicles to travel to an area where an attack on civilians occurred, but may be unable to do so because it is deemed too risky.

Second, HROs have to determine if the identified victim, witness or source may face threats or be subjected to reprisals as a result of his or her interaction with the field presence, by undertaking a specific risk and threat assessment. For example, the head of a local human rights NGO will most likely face different risks than a person who is relatively unknown. An eyewitness to a human rights incident is likely to be more at risk than a person who is a secondary source.

Several aspects need to be considered to assess the level of risk: the security environment and other factors related, for instance, to the location or the identity of victims, witnesses or sources (e.g., are they part of a group with special needs?), the existing threats and the history of intimidation. The level of risk will also depend on the capacity for self-protection of the identified victims, witnesses or sources, along with the ability of duty bearers to respond to any protection concerns that may arise (see sect. G, subsect. 1, below). Based on these elements, HROs should be able to conclude whether there is a

risk of harm and if such a risk can be reduced through preventive/protective measures during the initial contact, interview and follow-up.

If there is a risk of harm, HROs should establish whether the information likely to be obtained from the prioritized victim, witness or source can be gathered elsewhere or through means that do not require a meeting in person. If the information is available from other reliable sources and the risk of harm is too high, HROs should avoid establishing contact. If the information is not available from other sources, HROs may be able to collect the information through a trusted NGO based in the same location as the victim, witness or source that could conduct the interview.

Even when taking preventive measures to protect victims, witnesses or sources, a risk of harm may still exist and needs to be taken into account. When there is a strong indication that interaction with the field presence could lead to threats or retaliation, HROs should not attempt to make contact.

### **3 Initial contact**

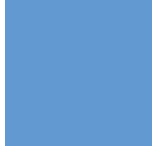
When establishing the initial contact, HROs must keep in mind that the safety and well-being of victims, witnesses or sources greatly depend on them. It is thus essential to assess the conditions in which contact can take place without risk. The focus should be on protecting their identity and ensuring that it is not widely known that they have been in contact with HROs.

In some contexts, the mandate and the activities of the field presence will already be known; in other cases, HROs may have to make an additional effort to clarify these (e.g., when in the public's perception the human rights component may be blurred with other components within a peace operation). The level of awareness and credibility among the local population of the work of the field presence, alongside its access to a network of partners, will influence how the initial contact may be made.

HROs can contact victims, witnesses or sources directly or through a third party/intermediary, such as a trusted person in the community (e.g., tribal or religious leader) or a civil society organization. They also need to be prepared to deal with situations in which victims, witnesses or sources themselves take the initiative, for example by visiting the office of the field presence, or engaging with HROs during on-site visits. To the extent possible, HROs should quickly assess the risk of harm that can result from such unplanned interaction and be prepared to either conduct an interview on the spot or agree on a follow-up contact according to certain modalities to prevent harm.

When establishing contact, HROs should remember that:

- Victims, witnesses or sources should be treated at all times with the utmost respect, dignity and professionalism;
- Preventive and protective measures should be scrupulously adhered to before, during and after contact with victims, witnesses or sources;
- Upon contact, victims, witnesses or sources should be duly informed of the mandate and activities of the field presence, and made aware of the principle of confidentiality;
- A clear and accurate explanation should be given on the limitations of the field presence to provide protection if those who come into contact with HROs face threats or are subjected to reprisals. No unreasonable expectations should be raised.



### *(a) Direct contact*


Direct contact may be established in a variety of ways. HROs may either travel to the location where the victim, witness or source is, or arrange to meet him or her at the office of the field presence or at a third location. HROs also have to decide on the best time to meet and should be reasonably flexible to be available after working hours if this could guarantee more protection. Telephone calls to set up a meeting in person should be kept short, particularly where such calls are likely to be tapped.

National staff may play a crucial role in establishing direct contact as they can discreetly blend in with the community. In some cases, however, victims, witnesses or sources may be more willing to engage with international HROs than with national staff, because of a lack of confidence or other existing tensions, for example, between different ethnic groups. HROs should be aware of these contextual factors to determine who would be the best interlocutor. In this decision, possible security risks to national or international HROs should also be taken into account.

When it has been agreed that a victim, witness or source will meet HROs at the office of the field presence, his or her name should not be registered at the security gate. Outsiders may easily access the information of such records, which may expose those who come to visit HROs to risk of harm. HROs should seek the agreement of the field presence, or of relevant components when in a peace operation, for a victim, witness or source to have access to HROs immediately upon arrival without having to disclose his or her identity.

HROs can also attempt to establish direct contact with a victim, witness or source in a manner that may seem coincidental. Some background research may be required to create such an opportunity, but it may be a useful technique to minimize exposure. For example, HROs could participate in the same social event as a source and approach him or her on that occasion to request a meeting at a later time and different location. However, HROs should engage in conversation without ever compromising the safety of the person. When feasible, particularly if such an encounter takes place in a more private setting, HROs may explore the possibility of gathering information at that moment, but the person approached must know why he or she is speaking with the HRO and the location must guarantee confidentiality.

### *(b) Contact through intermediaries*

A good network of partners and contacts is essential in any process of information gathering conducted by HROs. Key individuals within communities (e.g., head of the local farmers' cooperative or local school principal), representatives of local civil society organizations, human rights defenders or journalists are instrumental not only in identifying victims, witnesses or sources involved in human rights incidents, but also in facilitating their contact with HROs and in arranging interviews (see chapter on *Gathering and verifying information* ). These contacts are equally essential in providing advice to HROs on the best manner to establish direct contact and on how to ensure the safety of victims, witnesses or sources.

### *(c) Unplanned contact*

Victims, witnesses or sources often turn up at the office of the field presence to report a human rights incident or to raise their concerns and request the support of HROs. In such unplanned situations, HROs should discuss with them any harm that could result from their visit. HROs should be able to assess the level of risk and provide advice on any measures that they should take upon leaving the office of the field presence and/or in a follow-up contact/meeting with HROs.




Unplanned contact with victims, witnesses or sources can also occur during on-site visits or field missions. To the extent possible, HROs should anticipate such situations. When approached by someone, HROs have to quickly assess the surrounding environment and observe the possible presence of anyone who could expose the person to perpetrators or their allies, for example, security agents. When a situation is deemed too risky, HROs should decline to engage with the person who approaches them and agree on a modality for follow-up contact. For example, if HROs have a reliable partner organization on the ground, they can request it to re-establish contact with the person and facilitate communication with HROs at a later stage.

#### 4 Using discretion or visibility

Meetings and interviews with victims, witnesses or sources can be either visible or discreet. Both approaches have pros and cons for the safety of those contacted. For each specific situation, HROs should assess which approach offers the most protection. However, when opting for visibility, HROs must first discuss this with the victims, witnesses or sources concerned and obtain their informed consent.

HROs usually choose discretion as the standard approach to protection. It implies making all efforts to draw the least possible attention to individual victims, witnesses, sources or other cooperating persons. Such an approach is usually followed in all interactions during and after the information gathering phase, particularly when establishing the initial contact, organizing or proceeding with an interview and follow-up. The focus is on protecting the identity of the person concerned and adhering to strict preventive or protective measures to avoid exposing him or her, or the contact with HROs, to others who may pose a threat or cause harm.

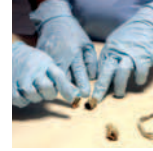
In certain situations, visibility is a better option, especially where the field presence is able to intervene with regard to a human rights concern. The promptness and the willingness of the field presence to respond not only have a protective impact – by helping to put a stop to ongoing violations or to prevent future ones – they also build local trust and credibility (see chapter on *Using presence and visibility* ).

When integrated in a peace operation, HROs should consider, for instance, the human rights impact of conducting joint field missions with other components of the mission in areas where increased United Nations presence can have a deterrent effect on perpetrators of human rights violations and can improve the protection of certain communities. Also, the fact that HROs are actively and visibly monitoring a human rights incident may discourage perpetrators or others from posing threats or retaliating against witnesses. HROs can exploit the potential political cost to a local authority of making public a human rights incident in which it is involved.

The choice of one approach or the other should tailor the manner in which HROs engage with communities. For example, they can make use of United Nations vehicles to make it known that they are meeting an individual or organization when parking outside the house or office, or they can seek to minimize attention by walking to the location instead.

#### 5 Minimizing exposure

It is very challenging for HROs to go unnoticed when travelling in a United Nations vehicle to a neighbourhood, village or region where the United Nations is not present, foreigners never venture or



vehicles are rarely seen. Without ever undermining their own security, HROs should, in the course of their monitoring activities, take measures to reduce the exposure of communities in general and that of specific individuals in particular, unless a visibility approach would be more beneficial (see subsect. 4 above).

HROs can consider:

- Not being vocal about the purpose of a visit to a certain location or the person they are meeting/interviewing;
- Parking the United Nations vehicle they may be travelling in at a distance or at a different location, where it may not be conspicuous, and walk to the venue of the meeting/interview;
- Blending in with the local environment as much as possible;
- Requesting trusted partners or an intermediary in the community to facilitate the meeting/interview by contacting the victim, witness or source directly and accompanying him or her to a predetermined private venue;
- Entering the agreed venue beforehand and separately from the victim, witness or source.



### Democratic Republic of the Congo

An international HRO from an African country had to meet a witness who was in hiding near the market in Goma in the Democratic Republic of the Congo. She had arranged to meet the daughter of the witness at the market and the daughter would then take her to the witness. The HRO dressed in local garb and exchanged greetings with women in the market in the local language to be less conspicuous.

In order to deflect attention, HROs can also plan to interview a wider number of individuals in the same community (even if irrelevant to the monitoring objective), so as not to single out the one person they actually want to contact. This method also prevents a specific individual from being identified as the source of the information. There is some safety in numbers and it follows the assumption that it is easier to retaliate against one individual than against many. Nonetheless, it may be possible that all those who were contacted will suffer reprisals or that one person in the community is subjected to harm to put others off from cooperating with HROs.

## 6 Organizing and conducting interviews

A range of preventive measures should be taken when organizing and conducting interviews with victims, witnesses or sources.

Finding an adequate **venue** to hold the interview is one of the most important aspects. The venue of the interview should protect the identity of the interviewee, ensure his or her safety and guarantee the confidentiality of the information provided. The decision on the venue should be based on a discussion with the interviewee, but also take into account the views of other cooperating persons and partners, such as local civil society organizations, and the experience gained by HROs while working in the country. It is important to ask the interviewee where he or she would feel more comfortable and safe to

talk. If the location suggested is not appropriate – because there is a risk of harm that the interviewee is unaware of or is disregarding – HROs should not hesitate to propose an alternative, safer venue.

HROs can enhance the confidentiality of the interview by arranging it in a place where it cannot easily be overheard, or where there are no video cameras or other surveillance equipment. Participants in the interview should also be kept to a minimum; besides the interviewee, the number of HROs should not exceed two and, when required, an interpreter should be present. All other persons (e.g., friends, neighbours or even family members) should be asked to leave before the interview begins, unless, for instance, the interviewee is a child or specifically requests the person to remain.

Ensuring that other people are not around during the interview, even if they have simply come out of curiosity or because of the novelty of such a situation in the community, may be challenging. However, this rule should be strictly adhered to as it not only ensures confidentiality, but also minimizes the chances of a third person reporting on the interview, with possible consequences for the interviewee. Furthermore, the fewer people around, the less the interviewee will feel pressured or influenced in what he or she should say. When the interviewee is a victim of sexual violence, the need to ensure confidentiality and privacy is even greater, as it will also protect the person from stigmatization by family members or the community.

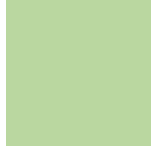
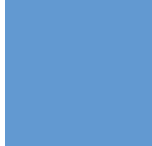


### Nepal

During the investigation of a highly sensitive human rights case, OHCHR-Nepal took precautions to maintain the confidentiality of the identity of a key witness. For example, the witness was informed at the last moment of the location of the interview and follow-up meetings, which usually took place in hotel rooms. Code names were used during telephone calls. HROs advised the witness to use diversion techniques when coming to meet them, such as riding a motorbike randomly through town until he was certain that no one was following him.

In some instances, it may be appropriate to conduct the interview at the office of the field presence, as, in principle, this environment is easier for HROs to control. Another option would be to meet the interviewee at a larger United Nations compound housing different United Nations agencies, as it would be more difficult for an outsider to identify which organization the person was visiting. If this is not a satisfactory option or if there is no United Nations office, HROs may consider other locations, such as hospitals, hotel rooms, restaurants with private rooms, the offices of local NGOs, or even private houses if deemed safe. When HROs are not familiar with the venue, they should arrive early to assess the surrounding environment and determine if it is appropriate. If not, they should immediately postpone the interview and agree on a different location.

**During the interview**, HROs and the interpreter, if present, should never refer explicitly to statements made by other victims, witnesses or sources. Such an error may endanger previous contacts and make the interviewee worry about the confidentiality of the information he or she provides. In fact, the identity of previous contacts should never be revealed, even if the interviewee was referred by one of them to HROs. The only exception would be if those contacts had given specific consent for their identity to be disclosed. It is good practice to record if the interviewee has consented to his or her identity being revealed as the source of referral to other contacts in such cases (see chapter on *Interviewing* ).




When **concluding the interview**, it is essential for HROs to:

- Obtain informed consent on the use of the information provided; the type of consent given by the interviewee should be clearly stated on the report of the interview;
- Discuss with the interviewee what preventive or protective measures he or she may take to avoid any reprisals as a result of the interaction with HROs. For example, HROs can advise the interviewee to always inform someone about his or her whereabouts, or to take other self-protective measures (see sect. G, subsect. 3 below);
- Clearly inform the interviewee of the limitations of the field presence in providing protection if he or she faces threats or is subjected to reprisals;
- Provide the interviewee with useful contacts in the community that could offer different types of assistance (e.g., protection networks) and/or of local authorities, if these can be trusted;
- Discuss with the interviewee a method to keep in touch; HROs should give a contact number (preferably a mobile phone number) that is accessible at all times and inform the interviewee of the location of the office of the field presence;
- Arrange for a follow-up meeting when required and/or possible.

## **7** Visits to places of detention

Preventing threats or reprisals against persons deprived of their liberty is particularly challenging as they have limited access to the outside world. When planning to conduct interviews in places of detention, HROs need to take additional preventive measures, particularly when selecting interviewees and deciding where the interviews will take place.

It is of the utmost importance to properly plan such visits by gathering information on the functioning of the facility and on any known human rights incidents involving inmates in advance. When possible or practical, it is advisable to conduct a first visit, or a series of initial shorter visits, to have an idea of the general conditions at the facility and assess the potential risks to inmates who provide information on violations. A series of introductory visits may also provide an opportunity to HROs to build on their relationship with the guards or the authorities in charge of the detention facility, which could prove useful when requesting authorization to interact with inmates in conditions of confidentiality (see chapter on *Visiting places of detention* .

HROs may identify beforehand whom they want to contact or select interviewees more randomly (e.g., on-the-spot selection, request for volunteers or selection by the authorities). In any case, the guards/authorities will always know with whom HROs interacted and, therefore, from whom they received information on possible human rights issues that they may report later. Consequently, inmates may face threats and be subjected to reprisals without HROs being aware of such incidences.

A possible technique to minimize the exposure of inmates with whom HROs interact is to interview a large group of inmates for a similar length of time, particularly if it does not increase the risk of harm to the group, as a means of deflecting the attention from a pre-identified inmate. In focus-group discussions, HROs should never pursue a line of interviewing that can lead to the exposure of one inmate in front of others. For example, they should avoid asking precise questions on a specific human rights incident. Group discussions are not confidential; some inmates may report the conversation to the guards or authorities.

In places with few detainees, such as small police cells, HROs should choose between interviewing all those in custody or none. The risk of reprisal may be higher if only few are interviewed, although, as mentioned, collective reprisals may also occur. Human rights officers' experience and knowledge about the facility, along with their capacity to follow up with future visits, should inform the decision.<sup>8</sup>

HROs also have to consider where the interviews will take place. Usually, the prison warden, or whoever is in charge, is the person who decides on the venue. HROs need to assess if that venue can guarantee confidentiality. If it is not adequate, because, for instance, there is a reason to believe that surveillance cameras are installed or guards can overhear the interview, HROs may propose an alternative venue. Ideally, such a venue should be at a reasonable distance from guards, for instance, an exercise yard. When interviewing victims of torture or ill-treatment, it may be necessary to ensure that guards are not within view so that they do not see the detainees showing their injuries. Regardless of the venue, HROs should always start an interview by asking the inmate if he or she believes it is safe to continue. Whenever the confidentiality of an interview with an inmate is in doubt, HROs should stop the interview immediately.

When an inmate expresses human rights concerns during a private interview, HROs should not publicly disclose that fact unless the inmate gave consent and it is strategically opportune to do so.<sup>9</sup> It is also important that HROs do not create expectations regarding possible corrective actions (e.g., release) and that they always apply the principle of **do no harm** before, during and after visits to places of detention or any interviews with inmates.

One measure that could help to mitigate risks of reprisals against detainees is to inform the authorities that there will be a follow-up visit within the next few days or weeks. In some situations, this may decrease the risk of ill-treatment. However, it is important that the follow-up visit does indeed take place.

## 8 Regular monitoring

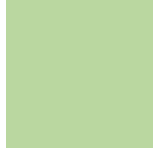
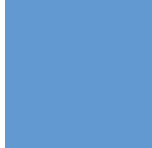
For the protection of victims, witnesses or other sources that have come into contact with HROs, it is essential to monitor their safety and well-being regularly. However, limited resources and difficulties in accessing certain areas may mean that HROs are not able to be in regular contact with, or easily accessible to victims, witnesses or other sources. HROs should identify those who may be more at risk and, at the initial contact and interview stages, develop a mechanism to maintain regular contact. Besides providing the cooperating person with their complete contact details and properly informing him or her of the location of the office of the field presence, HROs should, when feasible, also agree on a schedule for regular visits or phone calls (e.g., contact to be made once a month). Alternatively, HROs may be able to request a local civil society organization to check regularly on the well-being of the person and report to them. In the case of detainees, the HRO may, with the consent of the person, pass on his or her details to the International Committee of the Red Cross, local NGOs or the national human rights institution, so that they may undertake follow-up visits in the context of their own work.

The best manner to establish contact and regularly engage with a victim, witness or other source, as well as any other important considerations regarding his or her protection, should be recorded in detail in the corresponding file. This information is useful to ensure that follow-up contact is maintained without risk of harm and to inform HROs who may take over the file.

<sup>8</sup> Association for the Prevention of Torture, "The selection of persons to interview in the context of preventive detention monitoring", Detention Monitoring Briefing No. 2 (2009), p. 5.

<sup>9</sup> Ibid.





## 9 Establishing a protection team

The head of the field presence may decide to appoint a specific team dedicated solely to protection concerns involving persons cooperating with the field presence, and possibly other victims, witnesses and sources who may face threats for having provided information about a human rights incident. The establishment of such a team may allow for a more focused and timely response to protection cases, targeted fund-raising for protection activities and the development of expertise on such protection issues. If this approach is taken, care should be exercised to ensure that protection concerns continue to fully inform monitoring activities at all stages. The establishment of a protection team will have to take into account the field presence's mandate, capacity and resources.



### Democratic Republic of the Congo

In 2005, the human rights component of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) established the **Victims, Witnesses and Human Rights Defenders Protection Unit** in the context of its mandate to fight impunity and to respond more appropriately to protection cases brought to its attention. The Unit continued to operate when on 1 July 2010 the mandate of MONUC changed and it became the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

To guide HROs in their response to protection cases, the Unit set up a standard operating procedure outlining the criteria for beneficiaries and specific measures to protect them if they are under imminent threat of physical harm. Some of these measures involve a regular presence of or patrolling by HROs and/or other components of the Mission at the beneficiary's home or place of work; HROs having their phones switched on 24 hours a day; protection through the physical presence of the national police or army; intervention with the source of the threat; and public advocacy. As a last resort, persons at risk can be internally relocated using United Nations vehicles or aircraft.

This initiative was the first of its kind in a peace operation. It guarantees a certain level of continuity in the support given by the human rights component to victims, witnesses and other persons in need of immediate protection. It also strengthens the protection capacity of local civil society organizations and that of the national institutions. However, the implementation of the Unit's programme faces many challenges, such as managing the expectation of beneficiaries, providing them with long-term solutions, overcoming the shortcomings of a weak national legal framework for witness protection, and coordinating action by the Mission's components.



## E. Protection of national staff

National staff play a crucial role in facilitating access to key contacts, gathering information on human rights incidents, and analysing the complex political, social and cultural realities of a country. For the same reasons, they are also more vulnerable to risk, as they are often, along with their friends and families, part of the communities in which they work.



### Afghanistan

National staff working with the United Nations Assistance Mission in Afghanistan (UNAMA) faced constant risk of intimidation, abduction and execution by anti-government groups that accused them of being spies and of collaborating with the international presence. To protect themselves whenever they travelled to unsafe areas, they did not carry their United Nations identification or any other documents that could easily link them to the United Nations presence.



### Kosovo

In Kosovo, the United Nations mission transported national staff of one ethnicity from their homes to the workplace in United Nations vehicles to ensure their safety.



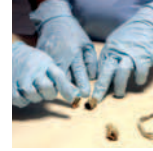
### Sudan

In Darfur, Government security agents often harassed national staff at checkpoints, even though they were travelling with international HROs and the Status of Forces Agreement with the Government provided for freedom of movement for the United Nations.

Field presences should consider:

- (a) The likelihood of national staff facing threats or being subjected to reprisals as a result of their involvement in human rights monitoring work or simply for being part of the field presence;
- (b) The possible impact national staff can have on the protection of victims, witnesses or other sources who come into contact with the field presence.

Addressing these issues requires better defining the role of national staff within the work of the field presence so as to minimize their exposure to risk, by following thorough recruitment procedures, and properly briefing them on the methods and tools used to protect victims, witnesses and other sources.



## 1 Involvement of national staff in human rights monitoring

The field presence is responsible for ensuring that national staff are not exposed to harm and for regularly assessing the risks they face and the measures in place to protect them. Usually, the risk to national staff is directly related to the degree of insecurity and instability of the country or region where the field presence operates. In conflict situations, national staff may face threats because the warring parties perceive the field presence as lacking impartiality. In other contexts, national staff may be pressured to divulge confidential information or to undermine the work of the field presence. Every time circumstances evolve or the political and security environments change, the role of national staff in the work of the field presence, particularly in human rights monitoring and fact-finding, should be reviewed taking into consideration the capacity to provide protection.

Where national staff may be at risk, the field presence should revisit the division of labour between national and international staff. For example, it may be preferable for national staff to focus on capacity-building during unstable periods. Other strategies can include minimizing the visibility of national staff by having international HROs accompanying them during monitoring activities or taking the lead in meetings with the national authorities and other prominent actors. More stringent rules on data protection, for example, restricting access to human rights databases or hard copies of case files, may also minimize the risk that staff may be pressured to divulge confidential information to which they are perceived to have access.




### Nepal

At OHCHR-Nepal the general practice is that when intervening or holding meetings with the authorities, national human rights officers and assistants are always accompanied by international HROs. Furthermore, depending on the alleged perpetrator or institution involved, or on the ethnicity of the staff, national colleagues are either included or excluded from working on specific human rights cases, accessing detention facilities or conducting missions to some regions.

National staff should be encouraged to report any actual or perceived threats they may face to other colleagues in the field presence so that an adequate protective strategy can be jointly devised and implemented (see sect. G below).

## 2 Protection of interpreters

If interpreters are required, they are the interface of HROs in all their interactions with different actors, from national authorities to local communities. Interpreters, who are in most cases national staff, may be put at risk of harm for being associated with the field presence, but through their actions they can also endanger victims, witnesses or other sources in contact with HROs (see chapter on *Interviewing*  for more information on the use of interpreters during interviews).

Owing to the nature of their work, interpreters usually have access to confidential and sensitive information without necessarily being trained to handle it. Interpreters need to be briefed on the nature of human rights work and on their role in ensuring the protection of victims, witnesses or other sources

and of the information they provide. It is of the utmost importance that interpreters respect at all times the principle of confidentiality, and carefully follow internal guidance on the protection of confidential and sensitive information (e.g., safe storage and handling of their notes) (see sect. F below).

Interpreters also need to be clearly informed of the potential risks of working with the field presence. Perpetrators of human rights violations may believe that they are able to easily intimidate interpreters into divulging information that affects them. To protect interpreters, HROs should take appropriate mitigating measures, such as rotating interpreters when interacting with the authorities (although it may prove more useful to use the same interpreter when engaging with the same community), and not disclosing interpreters' personal or contact details.

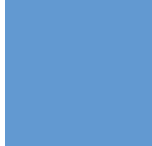
At the end of an interview, interpreters should be requested to hand over all their notes to the HRO, both to protect themselves from potential risks (for example, when they go through checkpoints) and to protect the information in the notes. The notes should be destroyed at the first opportunity.

When interpreters are required to provide assistance in particularly sensitive human rights cases, HROs should discuss how they could minimize any potential harm (e.g., self-protection measures). Interpreters should also be given the opportunity of deciding not to assist HROs in specific human rights cases if they deem that the risk to their safety is too high.

### **3 Recruitment of national staff**

National staff should be recruited with care. Particular attention is required in the selection of staff who interact directly with victims, witnesses or other sources, and who have access to confidential and sensitive information (e.g., national HROs, human rights assistants, interpreters and language assistants). Similar considerations should apply when recruiting support staff (e.g., administrative assistants, computer assistants, security personnel or drivers). The assessment of their suitability to work for the human rights field presence or during a mission should include checks on any past political involvement, past employment with security agencies, affiliation or link with the authorities, political parties, opposition groups or other similar entities. In general, the selection of national staff should avoid political and ethnic bias, which may have an impact on the security and credibility of the field presence. The recruitment of national staff should also guard against possible infiltration, that is, the presence of persons who deliberately pass on information on the work of the field presence to the State or other authorities. Depending on the local context, it may be necessary to avoid the recruitment of local staff who previously worked in State security agencies.

When possible, national staff should be recruited from diverse communities, ethnic groups and religious backgrounds to facilitate access to a broader range of communities and avoid situations where national staff may be perceived as biased. HROs need to be aware that national staff working in the region from which they originate can also further expose them, and their families, to risk of harm. As with many other aspects, field offices will have to assess what would be the most appropriate in a given context.



## Nepal

The general practice of the OHCHR-Nepal office was not to recruit national staff from the area where they were expected to work. This practice was meant not only to protect national staff, and their families, from being exposed to reprisals, but also to better guarantee their impartiality and independence during their monitoring activities.

Once recruited, all national staff should be duly informed of any internal guidance and policy, and trained on the protection of victims, witnesses and other sources. It is the responsibility of senior HROs to ensure that all national staff are aware of the field presence's basic principles and methods of work.

## F. Protection of information

The protection of information is closely related with the protection of victims, witnesses and other cooperating persons. Secure information management systems, with controlled access, should be set up to store, manage and protect confidential and sensitive information. Only staff who require access to such information for their work should be authorized to do so. The OHCHR standard human rights database should be used as a tool to register, store and archive information and documents related to human rights incidents or individual protection cases by the field presences.

### 1 Safe recording of information


Information on human rights incidents can be recorded using notebooks/written notes, computers, digital cameras or audio and video recorders. HROs need to consider which of these methods can ensure the highest level of security given the overall context in which the field presence operates.

As a general rule, HROs should ensure that the identity and the personal details of interviewees are protected and kept separately from the interview report and other information on the human rights incident. The **standardized use of codes** for the identification of victims, witnesses or sources is a means of achieving this purpose. For example, if the account of the human rights incident is recorded in a notebook, the personal data of the interviewee should be recorded on a separate sheet of paper and a code (e.g., V1) assigned for the person. This code would then appear at the beginning of the information recorded in the notebook.



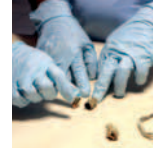
#### Sri Lanka

A human rights officer gathering information about an incident in Sri Lanka recorded the information in Kinyarwanda, his mother tongue, so that no one else could understand it. When soldiers stopped him at a checkpoint and read through his notes, they could not make sense of them and the identity of the sources was not exposed.

HROs normally use notebooks, as this is often more practical and also less inhibiting for interviewees. Cameras and audio or video recorders may be used **only with the express consent** of the interviewee, and in situations where they do not present additional security concerns. Normally, audio or video recorders are used when there is already some rapport between the HROs and the interviewee (see chapter on *Interviewing* ).

When using an audio recorder, HROs should never record the name of the interviewee; his or her personal details should be registered separately and in code so that no connection can be made between the recording and the interviewee. HROs should be wary that the interviewee could be traced through his or her voice, through the use of specific expressions or terminology, or through the description given of certain places. Extra care is needed in such situations to protect the audio recording and prevent it from being accessed by unauthorized persons or confiscated.

Even though cameras and video recorders can be essential tools in human rights work, their use can also easily lead to the identification of a source of information. When using a camera or a video



recorder to register the injuries sustained by a victim, witness or other source, HROs should avoid photographing or filming the face or any other images that may disclose the identity or the place of residence of the person. However, a victim, witness or source facing a high level of threat may want to be photographed or filmed as a means of self-protection. In such situations, HROs should discuss with the person concerned the best manner to guarantee his or her safety and the possible safeguard and use of the recording.

## **2** Safe storage and handling of information

The security of information may be breached because of improper storage and careless handling.

Field presences operating in countries in conflict or where security is volatile or where staff may be suddenly relocated, should consider keeping paperless offices. More than in any other environment, all confidential and sensitive information should be securely stored, preferably in encrypted format, on a shared drive or another secure system linked to a server from where information could be retrieved remotely. If there is no such system and the office needs to be evacuated, confidential and sensitive information should be either transported securely or destroyed. Information on computers should be properly deleted with the support of IT staff.

HROs should pay particular attention to the safe storage and handling of notebooks/written notes, including those of interpreters. They have to ensure that notebooks are always securely stored and not left unattended on top of office desks or inside United Nations vehicles. After typing up the interview notes, it is good practice to scan them and attach them to the electronic file on the human rights incident being documented. The written notes should then be shredded or burned. Similarly, photographs or audio and video recordings should be transferred to a secure encrypted storage system as soon as possible and the originals erased.

When hard copies of documents and information on human rights incidents need to be kept, these should be stored in lockable filing cabinets and access restricted to those HROs who need to use them. For additional security, the filing system for documents should not be displayed on the outside of drawers.

The same level of care needs to be applied to computers used by HROs. Computers can be stolen or accessed by unauthorized persons or the information stored on them can be modified or retrieved. Security safeguards, including passwords or encryption, should be used to protect all confidential and sensitive information on computers. Moreover, offices should always be locked when left unattended.



*i***Notebooks**

Not all confidential and sensitive human rights-related information in the notebooks of HROs may be fully transcribed electronically. The field presence may want to consider establishing the practice of keeping used notebooks relating to particularly important cases so that the notes remain accessible after HROs leave the country. Sufficient secure storage would have to be allocated and, most importantly, the field presence would have to determine who would manage this information. For easier reference, at the beginning of each notebook, the time period it covers and a quick index of the main issues documented should be written. Alternatively, such notebooks may be scanned and archived electronically.

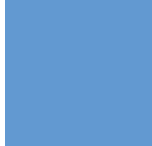
Confidential and sensitive information needs to be handled with care at all times, including when circulated among the staff of the field presence. Internal reports or briefing notes on human rights incidents should conceal or delete any information that could lead to the identification of the sources or of the victims and witnesses. The names and contact details of victims, witnesses or other sources should be included only in the corresponding case file, which should be securely stored in the field presence's information management system. When writing human rights reports, HROs should use either code names or initials, instead of the full names.

The same level of care should be taken during telephone calls among HROs. Even when there is no suspicion that such calls are being tapped, HROs should never exchange confidential or sensitive information over mobile phones; internal United Nations telephone extensions or password-protected e-mails should be used instead.

*i***Sharing of information**

When engaging with other organizations or participating in any type of coordination working groups, HROs are often requested to share human rights-related information. Even though HROs may rely on others for information gathering or when intervening in individual cases, confidential and sensitive information should not be shared under any circumstances before informed consent has been obtained from the source. Once information is transmitted to an external organization, even if it closely cooperated with the field presence, HROs will no longer be able to control its use and determine who can access it. The negligent disclosure of information can put a cooperating person at risk. However, field presences produce a wide variety of reports (e.g., briefing notes, analytical reports on general trends and patterns, public reports) or have access to other information that could possibly be shared without breaching confidentiality. The field presence should develop internal guidance clearly outlining which kind of human rights-related information could be shared with external partners. Such guidance would complement its policy on confidentiality (see sect. C above).

Careful consideration should be given to the **disposal** of confidential and sensitive information. Draft interview reports, handwritten notes and excess copies of documents that are not required or that cannot be stored safely should be shredded or otherwise destroyed. A range of people (e.g., cleaners or maintenance staff) can easily have access to such documents if they are simply discarded in a



waste-paper basket or recycling bin. Likewise, HROs should take care when disposing of disused computer equipment, as merely deleting files may not be sufficient to prevent recovery of confidential information. When required, HROs should seek advice from IT personnel to ensure that all information is properly erased from computers.

Besides ensuring that confidential and sensitive information is safely recorded, HROs need to consider how it can be securely transported when they are on field missions. When possible, they should transmit confidential information via a secure Internet connection to the office of the field presence and not carry it with them. Based on previous experience and knowledge about an area, HROs should attempt to anticipate any situation that may result in the forced disclosure of information. Field missions to unsafe areas or where it is expected that there will be roadblocks or checkpoints can be particularly challenging. Usually, United Nations vehicles and staff cannot be searched, but it may happen regardless of the United Nations agreement with the host country. HROs need to plan possible action to protect information when faced with such situations. While on mission, HROs should also keep their laptops with them at all times.

Finally, HROs should not peruse confidential and sensitive information in public places, such as in a restaurant or at an airport, as it could be read by others or be inadvertently left behind.

## G. Responding to protection concerns

The protection of victims, witnesses and other cooperating persons facing threats or reprisals should be of the utmost concern to the field presence. Therefore, HROs should give immediate priority to any individual protection case brought to their attention and make all efforts within their mandate to respond to it appropriately.

Information on risks or threats against cooperating persons must be subject to a thorough assessment, like any other information used by HROs. A vulnerable person may exaggerate facts or wrongly perceive an incident as threatening, because of previous trauma or exposure to human rights violations. It is therefore important to follow a thorough methodology to gather and verify information regarding allegations of threats or reprisals and, based on that analysis, determine which protective measures should be taken.

On the other hand, HROs may have to respond promptly with immediate protective action before being able to properly verify claims of threats or reprisals. They will have to adapt their methodology to the specific context in which they operate, and develop the capacity to adequately assess and respond to protection concerns within the available time frame.

In close consultation with the person at risk, a **protection timeline** should include:

- Verifying the facts surrounding the allegation of a threat or reprisal;
- Assessing if immediate protective action is required given the nature and seriousness of the threat, the vulnerability of the person at risk and his or her capacity for protection;
- Mapping the protective measures that may be available;
- Identifying the best course of action given the specific circumstances of the case (e.g., family situation of the person at risk, his or her educational and professional background, mobility);
- Determining how measures will be put in practice;
- Working closely with the person at risk and relevant partners in their implementation, regular review and follow-up;
- Closing a protection case when it is deemed that the threat no longer exists or the risk has been minimized to an acceptable level.

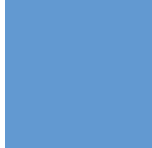
### 1 Risk and threat assessment

A crucial first step in developing a protection strategy is to undertake a risk and threat assessment. It should be conducted periodically or every time the general context and the specific circumstances evolve.


In order to assess the level of **risk** faced by a cooperating person (i.e., the likelihood of an event that will harm this person occurring), HROs need to take into account several aspects:

- (a) The threat received;
- (b) The person's vulnerability; and
- (c) The person's capacity to improve the security environment and overcome an attack.<sup>10</sup> The level of risk faced by a cooperating person will be directly proportional to the seriousness of the threat and

<sup>10</sup> Eguren, *Protection Manual*, pp. 17–29. A similar analytical tool applied to human rights problems – the human rights risk equation – is presented in the chapter on *Analysis*.



to his or her vulnerability to such a threat. Conversely, the resources and strengths a person can access will reduce the risk.

In determining **vulnerability**, HROs need to analyse the circumstances or the factors that, in a specific context, make the person at risk vulnerable to an attack or to being harmed.<sup>11</sup> The degree to which someone is susceptible to harm varies for each individual, even within the same group, and it can also change over time. Even though vulnerability is relative, and it cannot be simply equated to vulnerable groups, HROs need to be aware that some individuals or groups may be more exposed to threats owing to their gender identity, ethnicity, occupation, or social and political status, among other factors (see chapter on *Analysis* ).

HROs have to consider the different factors of vulnerability and try to strengthen the **capacity** of the person at risk to reduce the impact of the threat. Depending on the context, increasing that capacity can be as simple as providing the person with a telephone or other means of communication, ensuring access to local protection networks or international advocacy mechanisms. However, building protection capacities can take time. If the person is in imminent danger, HROs should focus primarily on reducing the threat.

When assessing the **threat**, HROs are analysing the possibility of an individual or group harming another person's physical or psychological integrity or property through purposeful or violent action.<sup>12</sup> Ultimately, HROs have to establish if a threat can in fact be carried out against a cooperating person. This will determine the response to the protection concern. If in doubt, HROs should act based on the worst-case scenario.

To assess the level of threat, HROs should gather information about:

(a) *The facts surrounding the threat:*

- When and how was the threat received or communicated? What happened exactly?
- Was the threat clearly and directly formulated (actual) or implied by its source?
- How did the person perceive the threat? For example, does the person believe that he or she is in danger because another person in close proximity was threatened?
- Can information about the threat be verified and corroborated by other independent sources?
- Have other persons also been threatened?

(b) *The history of intimidation:*

- Is there a pattern of threats? For example, have previous threats been conveyed using the same means (e.g., by e-mail or over the phone) and at the same time of the day (e.g., only at night)?
- Has the cooperating person been threatened or harmed before?

(c) *The objective of the threat:*

- What does the threat intend to achieve (e.g., for the person at risk to stop all communication with HROs)?
- Is the threat meant to influence the person's behaviour/attitude or to hinder his or her work?
- If the threat is carried out, what are the possible consequences?

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<sup>11</sup> Vulnerability can be related to geographical and physical aspects of the person's home or place of work, access to communications equipment, management of information, links to specific groups, such as political parties or parties to a conflict, access to national authorities, the judiciary or to international networks, etc.

<sup>12</sup> Eguren, *Protection Manual*, pp. 17–29.

(d) *The source of the threat:*

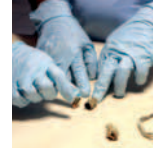
- Is the author of the threat known?
- Are there any direct or indirect links between the source of the threat and the national authorities or armed groups?
- Who may have influence or authority over the source of the threat (chain of responsibility)?
- What is the past behaviour of the source of the threat?
- What are the motives of the source for making the threat?
- Does the source have the capacity to carry out the threat?
- If the source carries out the threat, will there be any political or social repercussions?

The matrix below establishes the link between some of the elements mentioned (these are not mutually exclusive) and can help HROs assess the level of threat.<sup>13</sup> The knowledge and understanding HROs have of the local context and actors, and their dynamics, are still paramount and should always be factored into the threat analysis.

Potential consequences	Source, nature & means					
	Known author(s)	Actual	Verbal/written	Implied	Perceived	Anonymous
Death or serious physical injury	Major	Major	Major	Serious	Serious	Minor
Minor physical injury	Major	Major	Major	Serious	Serious	Minor
Damage to property	Serious	Serious	Serious	Serious	Minor	Minor
Damage to reputation	Minor	Minor	Minor	Minor	Negligible	Negligible
No injury or damage to property	Minor	Minor	Minor	Negligible	Negligible	Negligible

For example, a threat in a letter with the source clearly identified is more serious than an anonymous threat that exists as a rumour. However, HROs may reach the conclusion that, based on the content of the letter and on the history of intimidation, the signature on the written threat is false and it is aimed at preventing the identification of the source. This may signify, for instance, that the source of the threat is concerned about the political cost of openly acting against the cooperating person, choosing therefore to disguise his or her intention. Nevertheless, the threat will probably instil fear in the recipient. It is extremely important to understand what the threat intends to achieve (objective), as this is often linked to the cooperating person's behaviour/attitude or knowledge regarding specific events. Following that thread may lead HROs to establish who is behind the threat.

<sup>13</sup> This model does not consider the psychological and emotional impact of a threat on a victim, witness or other cooperating person. Nevertheless, the assumption must be that a threat will always have some impact on a person, even if from an operational point of view the threat may be negligible. The matrix was adapted from John Ralston, "International practice on witness protection: Gaps and strategies in international witness protection from an organized crime and policing point of view" (2008).



In summary, to strengthen the protection of a victim, witness or other cooperating person, HROs should focus their efforts on decreasing the level of risk by, on the one hand, **reducing the threat and the vulnerability factors** and, on the other, **increasing protection capacities**.<sup>14</sup> They should aim at bolstering the position of the person at risk and weakening that of the source of the threat.

## 2 Devising a protection strategy

HROs should not raise the expectations of the person at risk, nor be unrealistic about what they can do to protect him or her and what can, eventually, be achieved. Following the risk and threat assessment, and always bearing in mind the participatory approach to protection, HROs have to clearly inform the person at risk of the range of protective measures available and discuss their possible implications for his or her safety and well-being. They have to obtain explicit consent before taking any action on behalf of the person at risk.

**Protective measures** by HROs can include:

- Strengthening the cooperating person's capacity for self-protection;
- Supporting or establishing community-level protection networks;
- Using visibility strategies with a deterrent effect;
- Seeking the support of relevant partners and international mechanisms, such as international NGOs, diplomatic missions, United Nations agencies or special procedures;
- Mobilizing efforts to directly or indirectly provide physical protection to the person at risk, including through relocation;
- Limiting the capacity of the source of the threat to carry out an attack by reducing the vulnerability factors of the person at risk;
- Intervening to influence or affect the behaviour/attitude of the source of the threat;
- Requesting an influential person, for example a religious, community, political or civil society leader, to intervene with the source of the threat;
- Increasing the political and social costs to the source carrying out the threat through, for instance, public advocacy in partnership with national and international networks. The costs of carrying out the threat should outweigh the benefits;
- Advocacy and engagement with national authorities, stressing their human rights obligations, including their duty to protect those at risk and to prosecute offenders;
- Accompaniment of the person at risk during national criminal proceedings, if applicable;
- Capacity-building and technical cooperation directed at developing or improving national witness protection capabilities, as well as accountability mechanisms.

In consultation with the person at risk, HROs should devise a protection strategy, not only mapping appropriate protective options, but also establishing a course of action with measures that should be taken in parallel and those that should follow a sequence. For example, the person at risk may prefer to address the threat by first taking self-protection measures before wanting the case to be raised with the authorities. Alternatively, the protection response can be carried out at different levels simultaneously by, for instance, relocating the person at risk to another region for a short time while the field presence and relevant diplomatic missions intervene with the source of the threat. It is fundamental that both HROs and the person at risk act in accordance with the agreed protection *road map*.

<sup>14</sup> Eguren, *Protection Manual*, pp. 17–29.



When weighing the pros and cons of the different protective measures, HROs should consider the following:<sup>15</sup>

- (a) The **effectiveness** of such measures in guaranteeing protection;
- (b) Their **promptness** in responding to the security needs of the person at risk, including in emergencies;
- (c) Their **sustainability**, particularly for protective measures that envisage long-term changes (instead of just aiming at fulfilling short-term objectives);
- (d) Their **adaptability** to new circumstances, such as deteriorating security conditions;
- (e) Their **reversibility** when the risk disappears (for example, in case of relocation, the person being able to return home).

### 3 Supporting self-protection strategies

When at risk, individuals in a community will try to find ways to protect themselves and their families as best they can. Self-protection strategies usually attempt to reduce immediately one's exposure and vulnerability to a real or perceived threat. These strategies can be of many different types depending on the environment in which the person at risk lives (e.g., urban or rural, conflict or post-conflict), the type of threat, the existence of social networks and the level of access to financial, legal or other resources. Most self-protection strategies are, however, implemented in response to short-term objectives and are often not sustainable in isolation.<sup>16</sup>

Self-protection strategies can include:

- Strengthening protective physical barriers by, for instance, hiring bodyguards, installing alarms or electronic devices, or travelling with armed escorts;
- Implementing rapid response mechanisms, such as having access to a phone and a contact person on call, or being able to access safe havens within a community;
- Changing behaviour by reducing or halting activities that may encourage the threat to be carried out, adopting different and unpredictable routines, changing certain attitudes or hiding relationships;
- Creating a distance with the source of the threat by going into hiding or fleeing a location temporarily, or visiting friends and family out of town; or when working with a national organization being temporarily or permanently transferred to an office in another location.

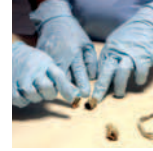


#### Afghanistan


In the aftermath of the 2009 presidential and provincial council elections in Afghanistan, a journalist who was under serious threat for having reported on fraud and vote rigging by the local authorities contacted the human rights component of UNAMA. After receiving the threats, the journalist decided to stop his professional activity by closing down his radio station and go into hiding away from his hometown.

<sup>15</sup> Ibid., p. 23.

<sup>16</sup> Ibid., p. 22.




An important component in an overall protection strategy is therefore to support a person at risk to increase his or her own capacity for self-protection and to reduce his or her vulnerability to harm. HROs can both strengthen and complement self-protection strategies already being implemented by the person, or support him or her in developing and setting up a feasible plan. They can reinforce individual protection plans by, for instance, making use of visibility strategies or accessing resources that can provide additional physical protection to the person at risk.

When visibility is considered to be the appropriate protection approach, for example in the context of peace operations, the United Nations police and military may be able to patrol the area where the person lives or works, or be on alert in the event of an emergency (see subsect. 11 below). When appropriate, HROs can raise the profile of the person at risk by visiting him or her regularly at home or at work, using United Nations vehicles and their presence as a deterrent against attack (see chapter on *Using presence and visibility*  ). Depending on the context, HROs may also be able to respond to a call for urgent help from a person at risk by, for example, promptly travelling to where the person is (if within reach) or triggering other protection capacities within the local police (if appropriate) or the community.

#### **4** Engaging with the national authorities

The national authorities are duty bearers with obligations to respect, protect and fulfil human rights. However, in situations of conflict, civil strife or overall economic and social instability, the authorities may either not exist or not function. In other circumstances, the State may simply refuse to meet its responsibility to ensure the protection of all persons within its territory.

To understand to what extent the national authorities can effectively ensure the protection of a cooperating person at risk, HROs need to be aware of the capacity of the national authorities (their human, financial or organizational resources and knowledge), and also of their commitment, particularly of the police, the prosecuting authority and the judiciary, to fulfilling human rights obligations. The field presence can support the national authorities in addressing capacity shortfalls by, for example, offering technical cooperation and training on witness protection, strengthening national expertise and providing advice on the development of legal frameworks. However, other types of action would be required to overcome a potential lack of will from the national authorities to deal with protection concerns.

When engaging for protective impact, HROs need to assess the integrity and credibility of the relevant national authorities, in order to decide if an intervention could help to resolve a protection case without further endangering the person at risk. Therefore, it is important that HROs maintain numerous channels of communication with the national authorities, as well as develop relationships with decision makers of all ranks, across the territory and in a variety of professional functions. They also need to take into account that their ability to intervene with the national authorities may differ from one region to the next and from one institution to another. For example, the police commissioner can be supportive in one province and an obstacle in a neighbouring one (see chapter on *Engagement with national authorities and institutions*  ).



## Afghanistan

In Afghanistan, the Taliban and other anti-government groups used a wide range of intimidation techniques, such as threatening phone calls, night letters or placing improvised explosive devices in offices or private houses, to deter women from occupying public positions or being active in advocating women's rights. As the field presence did not have direct contact with those groups, the advocacy was directed at the local, regional and national authorities to ask them to provide additional security and protection to women who were more prominent.

### *(a) When the source of the threat is a non-State actor*

HROs are more likely able to rely on the support of the national authorities if the source of the threat is not part of the State apparatus, for example, a warlord or an armed group opposing the Government. If the person at risk agrees, HROs can express concerns regarding an individual protection case and seek corrective action from the relevant authorities on behalf of that person. The latter may not want to report the case directly to the authorities for a range of reasons, such as for fear of further exposure to the source of the threat or a general lack of trust in State institutions. HROs can discuss with the relevant authorities what protective measures would be suitable. For example, HROs can obtain the agreement from the local police to conduct regular patrols in the area where the person at risk lives or have a police officer on call.


In other cases, HROs can support and accompany the cooperating person at risk in reporting the case directly to the appropriate national authority. When a complaint is made to the police or prosecuting authority, HROs should closely monitor the measures taken to investigate the case and protect the person at risk during national judicial proceedings (see subsect. 13 below).

The greater the influence a field presence has on the national authorities, the more leverage it will have for intervention.<sup>17</sup> HROs should build on the relationships developed with State actors to ensure their prompt and effective response to the threat posed to the cooperating person. They should monitor the response and assess its level of adequacy regularly in order to propose adjustments if circumstances change.

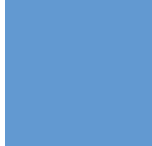
### *(b) When the source of the threat is a State actor*

If the source of the threat is a State actor, HROs will have to plan their intervention more strategically. However, it should not be assumed that the person at risk will not be able to receive any type of protection from the State. National authorities are politically and socially complex organizational realities, staffed with individuals who are affected by a variety of factors and motivations. HROs can build on this diversity to intervene.

To determine the most appropriate course of action, HROs need to map the key actors to:

- (a) Position the alleged source of the threat within the State apparatus;
- (b) Identify those actors that are more sensitive to calls to fulfil human rights obligations and can potentially support the field presence in seeking protection for the person at risk ("allies"); and
- (c) Understand institutional relationships and identify those who can exercise influence or intervene for corrective action (see chapter on *Analysis* ).

<sup>17</sup> Mahony, *Proactive Presence*, pp. 13–35.




Moreover, an actor map will help identify the underlying “forces at work” (i.e., those actors that can have a positive or negative influence on a particular issue, such as political or economic interest groups, the media, religious institutions, donors or embassies), which should also be considered when HROs devise their intervention strategy.

When attempting to reduce the level of threat, HROs should determine if it is preferable, for instance, to make use of influential actors, potential “allies” or intermediaries to affect the behaviour and motivations of the source of the threat or, instead, to intervene directly with the person posing the threat or with the institution the person belongs to. If HROs decide to intervene with the source of the threat, it is generally advisable to raise the issue first at the local level before taking the matter higher up. Local relationships are often stronger than national ones. For example, if the source of the threat is a low-ranking police officer stationed in a locality, HROs can raise their concerns directly with his or her police superior. If the latter is unwilling to take action, or there is some level of collusion, intervention by HROs should proceed along the chain of command.

The advantages, limitations and possible repercussions of each intervention will always have to be measured. For example, intervening with the source of the threat may permit HROs to prevent a threat from being materialized immediately, but it can also place the cooperating person at higher risk. Similarly, supportive “forces at work” or institutional allies can have a positive impact on the protection efforts, but at the same time their action can also put them at risk and in need of protection.

HROs have to decide which advocacy and intervention strategies should be pursued to achieve prompt action for the safety and well-being of the person at risk, while keeping communication channels with the authority at which their intervention is targeted open. In some situations, it may suffice to inform the local authorities that the field presence is aware of the case and is actively monitoring it to ensure the protection of the person at risk. In other cases, intervention may require more thorough planning and the involvement of more actors, for instance when issuing a joint public statement with other United Nations agencies.

When developing an advocacy and intervention strategy, HROs need to take into account the level of engagement between the field presence and the national authorities, the specifics of the individual protection case at hand, the informed consent of the person at risk, as well as the overall local context (e.g., cultural sensitivities). Furthermore, an intervention on a specific case can be made by the field presence alone or in coordination with others, such as representatives of diplomatic missions or United Nations agencies (see chapter on *Advocacy and intervention with the national authorities* ).


*i*

### Intervening with State actors

To seek corrective action on protection cases, field presences can use several **advocacy methods** to intervene with the national authorities or other duty bearers, such as:

- Meetings
- Confidential or public discussions
- Direct or indirect communication through intermediaries or influential actors
- Written correspondence
- Public statements and reports

## 5 Engaging with non-State armed groups

The level of engagement with non-State armed groups is often determined by the international, political and security environment in which the field presence operates and by the framework of human rights and humanitarian law obligations under which the armed group is accountable (see chapter on *Interaction with non-State actors* ).

The field presence should have a clear policy on the extent to which HROs should engage with a non-State armed group to raise concerns regarding an individual protection case. In any event, the field presence must clearly reiterate its impartiality and be wary of being used by the armed group to legitimize its cause.

Relationships with armed groups may take longer to establish and usually require additional efforts from HROs to ensure that the mandate and activities of the field presence are clearly understood and accepted. Nonetheless, most of the analytical tools, considerations and means of intervention used to engage with the national authorities can potentially be applied when HROs interact with an armed group. For example, the actor mapping analysis can enable HROs to identify key actors within the armed group, potential allies, “forces at work” and channels of influence. Elements of an armed group will also respond to a wide range of motivations, which can create different sensitivities that HROs can explore when seeking corrective action on an individual protection case.

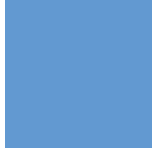
With armed groups that do not have a clear structure, or whose hierarchical lines are kept secret, it may be more challenging to identify who within the group could, for instance, exercise some level of influence over the source of the threat. HROs can rely on their own information gathering on the group’s background and modus operandi, or on the knowledge of local partners to identify potential “allies” that could effect change and support an intervention on behalf of a cooperating person at risk.

When deciding to intervene directly with an armed group on behalf of a person at risk, HROs should consider beforehand:

- (a) The security situation en route and at the location controlled by the group, as well as measures to minimize potential risks;
- (b) The consequences for national colleagues participating in the intervention, such as retaliation by the armed group or by the State authorities;
- (c) The framework in which concerns may be presented. For example, if the armed group has previously expressed a commitment to respecting human rights, or it has signed a relevant agreement, HROs should use those commitments to frame their protection concerns and request corrective action.

As a general rule, HROs should avoid taking unpredictable actions and should always keep transparent relationships with armed groups.

When there is no direct contact with the armed group, HROs have to rely on indirect channels, such as intermediaries or informal contacts through civil society groups or community leaders, to pass on their message and raise concerns regarding individual protection cases. National and international partners can put additional pressure on the armed group to comply with human rights principles and halt acts of reprisal against victims, witnesses and other cooperating persons.



## 6 Strengthening civil society networks

In most countries, there are formal or informal groups, associations or networks that provide assistance or some sort of support to their members, such as youth or women’s groups, religious associations or other civil society organizations. Cohesive and well-organized local networks are extremely important. When faced with a protection concern, these can more easily respond to it directly or access other resources and structures that can help. Ultimately, organized local networks can function as a deterrent and inhibit reprisals against specific individuals or the community as a whole.

HROs can support a cooperating person at risk in making use of the resources available in the community by facilitating contact with local protection networks. They should therefore be aware of the networks in an area and their capabilities and limitations in order to better advise the person at risk. For example, some community networks may be able to enhance the physical protection of an individual by conducting regular patrols in his or her area of residence. Others may have access to temporary accommodation in locally managed shelters or be in contact with networks in a different region that can provide other types of assistance.

Local protection networks can also play a role in advocating on behalf of specific individuals or in raising protection concerns directly with the national authorities or, more importantly, in supporting the protection of members from their communities who cooperate with national judicial proceedings.



### Democratic Republic of the Congo

To strengthen the local protection capacity, the human rights component of MONUC established an informal **network of civil society partners** across the Democratic Republic of the Congo to respond directly to individual protection cases. The programme operated from 2007 to 2009. Staff from MONUC were recruited specifically to identify, train and coach partner organizations in the network to better address protection issues. The national protection officers were also successful in establishing positive working relations with the local authorities and in setting up cooperation mechanisms that enabled the network to respond to many protection cases through dialogue and mediation.

HROs can play a fundamental role in strengthening or supporting the establishment of local protection mechanisms. They can improve the coordination among different local organizations or support them in their efforts to access funding, training or other resources.




### Nepal

OHCHR-Nepal provided technical assistance to a group of local organizations in preparing a project proposal that envisaged the establishment of a safe house to provide temporary shelter to human rights defenders at risk. The involvement of OHCHR was central in identifying and bringing these organizations together, and in facilitating their contact with the donor community.



## 7 Cooperation with non-governmental organizations


HROs should establish and maintain contact with national and international NGOs, or coalitions of NGOs, based in the country or in the region, that manage witness protection programmes.<sup>18</sup> Such NGOs can be instrumental in offering emergency medical, psychosocial or other types of assistance, in supporting the development of self-protection plans, in delivering training on security awareness to local community networks, in setting up safe houses and in providing protective accompaniment to cooperating persons at risk.

Human rights field presences can engage with the relevant NGOs to coordinate protection efforts and refer a cooperating person at risk directly to their services. HROs should conduct a preliminary assessment of the range of assistance available and the protection methods used by each NGO (see chapter on *Engagement and partnerships with civil society* ).



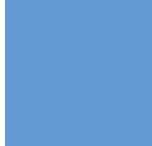
### Front Line

Front Line ([www.frontlinedefenders.org](http://www.frontlinedefenders.org)) is an organization founded in Ireland in 2001 with the specific aim of protecting human rights defenders at risk. It defines these defenders as “people who work, non-violently, for any or all of the rights enshrined in the Universal Declaration of Human Rights”. Front Line provides them rapid and practical support through, for instance: a 24-hour emergency response phone line; grants to human rights organizations or individual defenders; national and international advocacy and lobbying; and temporary relocation and assistance with medical and legal expenses, particularly in emergencies. Front Line also issues reports on the situation of defenders in specific countries, and provides training and resource materials.

For example, some NGOs provide protection through visibility and direct accompaniment, if visibility is considered to be the appropriate strategy. Protective accompaniment is highly targeted and labour-intensive, and it usually involves walking or travelling with a person at risk, living in threatened communities, or being based at the same location as a threatened organization. HROs normally do not undertake direct accompaniment themselves, but they can, when appropriate, identify other organizations with such capacity, to which they can refer persons at high risk (see chapter on *Using presence and visibility* ).

<sup>18</sup> Some examples of regional NGO networks are: the Asian Forum for Human Rights and Development (Forum-Asia); the South Caucasus Network of Human Rights Defenders; the East and Horn of Africa Human Rights Defenders Project; and the Arab Human Rights Defenders Union (A/HRC/13/22, paras. 84–91).





## Peace Brigades International

Peace Brigades International ([www.peacebrigades.org](http://www.peacebrigades.org)) was created in 1981. It sends international volunteers to areas of conflict to provide unarmed accompaniment to human rights defenders and communities whose lives and work are threatened by political violence. Peace Brigades International acts on the premise that there will be an international response, such as diplomatic and economic pressure, to the violence or potential violence the volunteer witnesses. The protective accompaniment can take the form of escorting an individual up to 24 hours a day, being present in threatened communities or remaining in the offices of organizations, accompanying defenders when they travel, or regularly phoning to check up on the safety of individuals or organizations.

A human rights field presence's unique position means it can engage with a wide variety of actors. HROs may enable constructive relationships between local civil society networks or NGOs and international institutions or mechanisms that can have a protective role. For example, HROs can facilitate the interaction with representatives of diplomatic missions, other United Nations agencies or special procedures. Such international partners can carry out independent advocacy and provide types of support that are often outside of the mandate and the capacity of the field presence, but that can have a complementary protective impact.<sup>19</sup>

### 8 Cooperation with diplomatic missions

Foreign embassies may be able and willing to assist field presences in dealing with individual protection cases. They usually follow political and social developments in the country closely and often rely on exchanges with other international partners, such as the United Nations, to gather relevant information and seek advice. Diplomatic missions of member States of the European Union (EU) or the Council of Europe<sup>20</sup> are specifically mandated to monitor the situation of human rights defenders and to take action to protect them.

<sup>19</sup> Mahony, *Proactive Presence*, pp. 81–89.

<sup>20</sup> See Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities (2008).



## European Union Guidelines

The European Union Guidelines on Human Rights Defenders, which were adopted in 2004 and reviewed in 2008, can provide a basis for the field presence to engage with diplomatic missions from EU member States. The Guidelines propose practical measures for EU member States to support and protect human rights defenders and can be used in contacts with third countries at bilateral and multilateral levels. Some suggested measures are: EU missions making recommendations to the Council Working Party on Human Rights for possible EU action, including condemnation of threats and of attacks against human rights defenders; protests through diplomatic channels or public statements; urgent local action by EU missions to support defenders at immediate or serious risk; and swift assistance, such as issuing emergency visas and providing temporary shelter in EU member States.

*Sources: "Ensuring protection: European Union Guidelines on Human Rights Defenders" (2008) and A/HRC/13/22, paras. 100–103.*

Human rights field presences can request the intervention of diplomatic missions in specific situations. The support that the latter will provide will most likely depend on the level of cooperation that they have previously established with the field presence and on their own Government's policy.

It is good practice for heads of field presences to hold regular meetings with diplomatic representatives not only to keep them abreast of the current human rights situation, but also to create the opportunity to discuss emergent issues and coordinate interventions in individual protection cases. For example, HROs can seek the assistance of relevant diplomatic missions in implementing protective measures if a human rights defender is under imminent or serious risk after cooperating with the field presence. Diplomatic missions can use *démarches*, usually in the form of confidential letters, or public statements to officially raise issues, express concerns or protest with the national authorities.<sup>21</sup>

In critical situations in which international relocation of the person at risk is the only option, diplomatic missions can be a key partner in supporting requests for asylum/refugee status, in issuing temporary visas or in providing the person with resources to allow him or her to leave the country, for example in the form of a scholarship to study abroad or an internship at an international NGO in a third country.

As mentioned above, the field presence can also bring together civil society organizations and diplomatic representatives to encourage the latter to fund or otherwise support local protection initiatives.

## 9 Cooperation with United Nations agencies

United Nations agencies in the country may have programmes that can support the field presence in responding to an individual protection case. HROs should engage with United Nations agencies to exchange information and coordinate activities which may be complementary and fill in protection gaps for which a field presence does not have the capacity or resources. Furthermore, joint advocacy

<sup>21</sup> *The Front Line Handbook for Human Rights Defenders: What Protection can EU and Norwegian Diplomatic Missions Offer?* (Dublin, Front Line, 2007) provides practical advice on how defenders can use relevant EU guidelines to improve their security.



by United Nations agencies can serve to focus attention on a protection concern and put pressure on the national authorities to take action.

HROs can use the United Nations country team inter-agency coordination mechanisms, such as the Protection Cluster or the regional protection working groups, to engage with United Nations agencies on a protection case. HROs should be aware of the scope of United Nations agencies' activities, as well as the constraints faced in the country of operation, in order to better target requests for specific support.

For example, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) may support local NGOs in establishing shelters for women at risk, to which HROs could refer a female victim or witness facing threats. If international relocation is required for a cooperating person at risk, the Office of the United Nations High Commissioner for Refugees (UNHCR) may be able to provide legal assistance in claims for asylum abroad. The United Nations Office on Drugs and Crime (UNODC) may have resources available to train law enforcement agents and judicial officials in witness protection or to support State institutions in developing and establishing a national witness protection programme.

## **10 The United Nations Voluntary Fund for Victims of Torture**

HROs can support cooperating persons at risk to obtain assistance through the United Nations Voluntary Fund for Victims of Torture. The Fund was established by the General Assembly in 1981<sup>22</sup> and is administrated through OHCHR with the advice of a Board of Trustees, composed of five members acting in their personal capacity and appointed by the Secretary-General. It awards grants to NGOs that provide psychological, medical, social, legal or economic assistance to victims of torture and their relatives.<sup>23</sup>

HROs can make use of the Fund when seeking protection for victims of torture (including of rape and enforced disappearance) and for their relatives who are under threat for having cooperated with the field presence. Assistance granted through the Fund should be linked with the direct consequences of the act of torture and is mainly provided in kind. In searching for such assistance, HROs can establish contact with the NGOs managing grants from the Fund and refer the person at risk to their services.

For example, NGOs working with the Fund can facilitate the social and financial integration of a person at risk who was relocated to another region in the same country or abroad through vocational training. The Fund can also pay for legal assistance to victims and their relatives claiming asylum.<sup>24</sup>

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22 Resolution 36/151.

23 NGOs can submit applications for grants on an annual basis or, in exceptional circumstances, apply for emergency grants. For more information, see [www.ohchr.org](http://www.ohchr.org).

24 A/HRC/13/75, para. 4.



## Guinea

In the aftermath of the visit by the International Commission of Inquiry on Guinea (Conakry), set up by the United Nations Secretary-General in 2009, OHCHR established a temporary presence in the country to follow up on protection concerns related to persons who had cooperated with the Commission. When responding to those concerns, OHCHR acted as a bridge between persons at risk and organizations or institutions that could provide protection. The United Nations Voluntary Fund for Victims of Torture was used to facilitate the international relocation of a group of human rights defenders who had been detained and mistreated in custody and faced ongoing threats. An NGO financed by the Fund facilitated their integration and supported their claims for asylum.

In countries where there are no projects financed by the Fund or the projects are not relevant, a victim of torture may, exceptionally, apply directly for emergency assistance.<sup>25</sup> HROs can facilitate contact between the victims of torture who are at risk of retaliation and the secretariat of the Fund, as well as support victims in preparing all the background documentation for their applications.<sup>26</sup> Even though emergency grants are a one-off option, assistance in such cases can be delivered reasonably quickly. Long-term assistance through the Fund is possible only via an NGO-managed project.

### 11 Protection within peace operations

In peace operations, the presence of other United Nations components, such as political affairs, civil affairs or child protection components, or of United Nations police and military can have both positive and negative implications for the efforts of HROs to ensure the protection of cooperating persons.

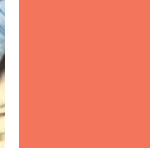
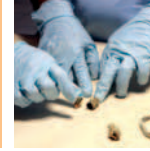
HROs need to be aware that in the public's perception their presence can easily be blurred with those of other components within the peace operation. As much as possible, HROs should make additional efforts to establish separate contact networks and to inform communities in general of their role and activities vis-à-vis those of other components.

This holds particularly true if United Nations police or military observers are present, or if the human rights component is located in a United Nations military compound. Victims or witnesses may be hesitant to approach HROs, or may even refrain from doing so, because they associate HROs with armed peacekeepers. Similarly, HROs need to weigh the advantages and disadvantages of travelling with United Nations police or military escorts, although if the security situation is unstable they may not have any choice.

Other components of the mission can play a positive role in the implementation of protection measures. For example, HROs can work closely with the United Nations police or military when intervening with national security agencies to raise an individual protection case. A police commander may be more willing to engage with a United Nations police officer, because of their professional affiliation, than with an HRO. Likewise, HROs can request the head of the United Nations office to raise the profile of a specific protection case and to exert pressure on Government authorities to take action.

<sup>25</sup> United Nations Voluntary Fund for Victims of Torture, "Guidelines of the Fund for the Use of Organizations" (2010).

<sup>26</sup> Ibid., chap. X, sect. B.



As much as possible, the human rights component should institutionalize the cooperation with the mission's other components, particularly with the United Nations police and military, in order to ensure that their support is not merely based on informal and personal relations. Together they can develop official guidelines clarifying the role and responsibilities of each of them with regard to protection cases and setting out clear procedures to respond promptly to urgent situations. The issuance of such guidelines would prevent duplication as well as action that might further jeopardize the safety of a person at risk. It will also allow for a more comprehensive United Nations response, involving a wider set of skills and resources.

When integrated in peace operations, human rights components also benefit from a wider range of logistical and transport resources. An agreement can be reached to facilitate the use of United Nations resources for persons at risk, while ensuring a high level of confidentiality and protection.



### United Nations flights

The human rights components of some peace missions make regular use of United Nations flights to guarantee the safe relocation of persons at risk within the country. This allows for a rapid response to some of the individual protection cases that are brought to their attention.

For example, the field presence could obtain a blanket authorization for HROs to transport cooperating persons at risk in United Nations vehicles without having to go through an administrative procedure. Other protection measures could include an authorization to have the names of persons at risk travelling in United Nations aircraft being known only to the responsible HROs and not appearing on the passenger manifest or for the person at risk, accompanied by HROs, to have direct access to the aircraft without passing through airport security checks (e.g., the security check could be carried out by United Nations staff before boarding the flight).

## 12 Shelter on United Nations premises

Cooperating persons under serious threat may seek shelter on United Nations premises. HROs have to deal with these situations mainly in an ad hoc manner, bearing in mind the logistical and human capacity and the mandate of the field presence.

Should such a situation occur, HROs should immediately seek legal advice. They should also contact the relevant United Nations security staff to jointly assess the level of threat posed to the cooperating person. In the context of peace operations, other components, such as the United Nations police and military, can also be involved in that process.

HROs should consider several aspects:

- Understand if the presence of the cooperating person seeking shelter will have an impact on the perception of impartiality of the field presence or on the security of others inside the United Nations premises;

- The protective and security measures to be put in place while the person stays on United Nations premises, particularly if it concerns a woman or a child, to ensure the person is safe and cannot be harmed by others present on the premises;
- Access to emergency medical care and the provision of shelter, water and food for the person while he or she remains on United Nations premises, and how those expenses will be covered;
- The relocation of the person and the legal and logistical implications of that decision. For example, if a decision is made to transport the person in a United Nations vehicle or aircraft, security and administrative clearances have to be obtained in advance;
- The length of the stay, particularly if the threat continues for an extended period of time and other protective measures are not available.



### United Nations shelter for persons at risk

In some circumstances, the United Nations has committed to providing shelter to persons at risk:

- According to the *DPKO/DFS Guidelines: Integrating a Gender Perspective into the Work of the United Nations Military in Peacekeeping Operations* (March 2010), military components can provide initial protection to victims and witnesses who report perpetrators of acts of sexual violence. Such cases should be referred to United Nations police or human rights components of the mission for follow-up with the national authorities (p. 26).
- In “Addressing conflict-related sexual violence: an analytical inventory of peacekeeping in practice” (United Nations, 2010), the provision of temporary accommodation in mission stations to civilians in danger is included as an example of a task/tactic in “transporting threatened women to safety” (pp. 36–37).

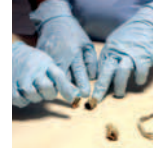
Protection may be required only for a short time, for instance, while negotiations take place with the source of the threat or until the authorities are able to take action. When intervening with the source of the threat, HROs should seek assurances that the person at risk will not be harmed upon leaving United Nations premises and will be treated in accordance with relevant human rights standards. The person at risk may be required to leave United Nations premises as soon as the threat subsides or when other protective measures are available.

### 13 Protection in national judicial proceedings

The ability of a victim, witness or other person to cooperate with national criminal investigations or to testify without fear of intimidation or retaliation is an essential element in the fight against impunity and in the protection of human rights.

HROs can support and accompany the persons through a judicial process. They should, therefore, have a good understanding of the legal framework and the overall functioning of the national judiciary, including of its level of independence and professionalism, and adherence to international fair trial standards. They can enhance the protection of the cooperating person by engaging regularly with the judicial authorities responsible for the case and by monitoring the investigation and trial proceedings.





At the same time, HROs can assist the national judicial authorities in developing or strengthening their capacity for the protection of witnesses, making use, for example, of existing technical cooperation programmes. This is a highly technical area and the following guidance and information for HROs is in no way intended to replace the specialized expertise that would be required to advise national authorities on effective measures and programmes to protect witnesses.

Even though some types of protective measures are not widely available and require a higher level of expertise and resources (e.g., formal witness protection programmes), national authorities can adopt effective measures at every stage of a judicial process regardless of the available resources (e.g., measures to protect the identity of a witness, barring the media during the testimony of the witness or ordering the media not to disclose his or her identity). Despite possible constraints, the national authorities have the obligation to protect cooperating persons from acts of intimidation and retaliation from the initial investigative phase through to the actual court proceedings and conclusion of the trial.

#### *(a) During the investigation*

The risk of disclosing the identity of a witness in a criminal investigation at the investigative phase needs to be carefully considered, particularly in cases directly implicating law enforcement agents or other State actors. This risk may be mitigated if, for instance, there is an independent investigative unit to deal with cases involving police officers or other security agents, or whenever the prosecuting authority is deemed credible.

In some situations, it may suffice to have the case dealt with at a different location or at a higher level to ensure the protection of the complainant. If the offender is a police officer at the regional level, the case can, for instance, be followed up at the national level by a supervising officer at police headquarters.

When appropriate, HROs can suggest that certain measures should be taken in the early phases of the investigation to limit the exposure of a cooperating person, such as:<sup>27</sup>

- Ensuring that it is not widely known that the person is contributing to the investigation;
- Not disclosing the person's name or address to the public. Safeguarding the identity of a victim or witness at the early stage of a judicial process increases the potential for safely obtaining that person's testimony during trial proceedings without resorting to stricter protection measures;
- Notification to the local police, when appropriate, that a cooperating person may be subjected to reprisals. A contact police officer should be identified so that any intimidation can be reported and acted upon immediately;
- When a cooperating person believes that he or she will be at risk for visiting the police station, police can contact that person discreetly in a different location. For example, a plain-clothes police officer can visit him or her at home and conduct a number of other house visits in the area to prevent the person from being singled out;
- Availability of close protection in extreme cases;
- The police should use physical screens to hide the cooperating person from the suspect in identity parades.

As mentioned earlier, an analysis of the different channels of influence and conflicting interests and agendas is useful to prevent a situation in which a victim, witness or other cooperating person is placed at greater risk because his or her identity or location was communicated to the wrong State agent.

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<sup>27</sup> A/63/313, para. 16, A/HRC/12/19, para. 33, and Ralston, "International practice on witness protection".

### *(b) During trial proceedings*

The manner in which trials are conducted has implications for the level of protection that may be granted to a cooperating person. For example, the schedule and venue of sessions can have an impact on the participation and protection of witnesses. There are more opportunities for intimidation when trials are repeatedly delayed, or when witnesses are summoned to appear in court on days that they are not scheduled to testify. Similarly, the venue of the trial should accommodate the need of witnesses to remain at a distance from where the alleged perpetrator or his associates live.<sup>28</sup>

To the extent to which it does not prejudice the rights of the defendant, including his or her right to due process, a range of procedural measures may be adopted in national criminal proceedings to better protect victims, witnesses and other cooperating persons, such as:<sup>29</sup>

- Using statements given during the preliminary phase of the proceedings as evidence in court;
- Disclosing information that enables the victim, witness or other cooperating person to be identified at the latest possible stage of proceedings and/or releasing only selected details, and/or disclosing information only to the accused and the defence counsel;
- Excluding or restricting the media and/or public from all or part of the trial, or allowing the media, but preventing it from publicly identifying the person;
- Obtaining a court order to protect the identity of the victim or witness throughout the trial and afterwards (normally used in cases of sexual violence);
- Using devices to prevent the physical identification of the cooperating person, such as screens or curtains, disguising the face or distorting the voice;
- Using video-conferencing with the victim, witness or other cooperating person testifying from a different room in the court building or from a different location.

### *(c) National witness protection programmes*

National witness protection programmes have been established in a variety of countries to provide physical protection and psychological support to persons at risk who cooperate with judicial or non-judicial proceedings (e.g., truth and reconciliation commissions).

The protective measures they offer may range from providing the person at risk with a police escort to and from work or setting up a rapid response alarm that would alert the police if any threat materializes to providing temporary accommodation in a safe location. In certain situations, national programmes may also facilitate the relocation of a person at risk under a new identity to a new and undisclosed place in the same country or abroad (see subsect. 16 below).

HROs should become familiar with the national legislation or programmes for the protection of witnesses where they exist, as:

- (a) Such a framework may provide alternative protective measures for persons who are at risk after cooperating with the field presence; and
- (b) Persons in contact with HROs and who cooperated with national judicial proceedings may require formal protection at some stage.

<sup>28</sup> A/63/313, para. 20.

<sup>29</sup> For more information on protective measures that may be adopted during trial proceedings, particularly allowing witnesses to give testify anonymously, see A/63/313, paras. 20–29.



In particular, it is useful for HROs to be aware of the procedures and criteria for admission into and exit from the national witness protection programme, the eligible crimes, the mandate to protect and assist, and any other operational aspects of the programme. They should assess the integrity and effectiveness of the programme in ensuring the safety and the physical and psychological well-being of the cooperating person, as well as in preserving the confidentiality of his or her identity.

A national witness protection programme may also have available to it safe houses and other structures for temporary accommodation to which HROs could refer persons at risk because of their cooperation with the field presence. It is thus essential to establish contact with the institution managing such shelters before a problem arises to ensure that they can effectively guarantee protection.

HROs should encourage and, to the extent possible, support the structure responsible for the witness protection programme in conducting regular threat assessments in order to determine if the protective measures in place are adequate for the level of risk faced by the cooperating person. Furthermore, as the ultimate goal of a witness protection programme is for its participants to leave it safely and securely when appropriate, HROs may be able to propose other measures that can effectively replace the formal protection given through the national programme.<sup>30</sup>

In the specific context of prosecutions for human rights violations, HROs have to keep in mind that it may be inappropriate to refer a cooperating person to a national witness protection programme, particularly if it is not managed by an independent agency.



### Dangers of police-operated protection programmes

In some countries, the national witness protection programme operates under the total control of the police, with protection provided by police officers. This leaves victims and witnesses of human rights violations perpetrated by the police vulnerable to threats and at risk of harm.

#### 14 Action by special procedures<sup>31</sup>

HROs can request the intervention of the special procedures of the Human Rights Council on behalf of victims, witnesses and other cooperating persons at risk.

Intervention by special procedures can take the form of:<sup>32</sup>

- Written communications to the State and other duty bearers about any past/ongoing/actual or anticipated human rights violation that falls within their mandate. The main purpose is to obtain clarification about the alleged violation and, where necessary, ask for preventive or investigatory action to be taken. Communications can be sent either by one or by several mandate holders. These are usually in the form of (i) urgent appeals, if the alleged violation is time-sensitive and

30 A/HRC/12/19, para. 54.

31 According to the "Manual of operations of the special procedures of the Human Rights Council" (2008), the term special procedures includes individuals designated as special rapporteurs or independent experts and members of working groups appointed by the Human Rights Council.

32 For more details, see "Manual of operations of the special procedures of the Human Rights Council".

may involve loss of life, life-threatening situations or imminent or ongoing damage of a grave nature, or (ii) letters of allegation, mostly used when the alleged violation has already occurred or is not urgent;

- Public statements or press conferences, by one or by several mandate holders, particularly if a Government has repeatedly failed to provide a substantive response to previous communications;
- Periodic or annual reports to United Nations bodies, particularly to the Human Rights Council and the General Assembly, which may include information on acts of reprisal, action taken by mandate holders and their observations on the State replies they have received.

When requesting the intervention of a special procedure, HROs must first discuss in detail with the person concerned the potential impact that action can have on his or her safety, particularly if his or her identity will be communicated to the national authorities – if these are the source of the threat – or mentioned in a public report.

Special procedures have established work methods in this regard. While the source of information is never mentioned in communications sent by a special procedure mandate holder to a State, nor is it disclosed in the public communications report submitted to the Human Rights Council, the name of the alleged victim is usually included in both the confidential letter sent to the State and the public report. This report is normally published a few months after the communication has been sent to the State.

Victims and persons acting on their behalf, including HROs, may request that the names of victims remain anonymous in the public communications report, if privacy or protection concerns so require. This request should be clearly communicated when the information is submitted to the relevant special procedures.

Names of minors, trafficked persons or persons who were allegedly victims of sexual violence, sexual torture or violations linked to their sexual orientation are not revealed in the communications report of special procedures. Exceptions to this rule are possible, if the victim, the guardian or the person acting on the victim's behalf, explicitly requests that the name of the victim be mentioned in the report.

Persons cooperating with the field presence may also be subjected to reprisals for having provided information to special procedures during country visits. As specified in the terms of reference for fact-finding missions by special procedures, prior to the visit, the Government must provide assurances "that no persons, official or private individuals who have been in contact with the special rapporteur/representative in relation to his mandate would for this reason suffer threats, harassment or punishment or be subjected to judicial proceedings".<sup>33</sup> Even though this guarantee is formally accepted, it may not be fully respected in practice.

HROs should note that the criteria and the procedure for submitting a communication vary according to the specific requirements established by each mandate holder. However, in general, minimum information must be provided to all special procedures for a communication to be assessed, specifically: (i) identification of the alleged victim(s); (ii) identification of the alleged perpetrator(s) of the violation;

<sup>33</sup> E/CN.4/1998/45, appendix V.



(iii) identification of the person(s) or organization(s) submitting the complaint; (iv) date and place of incident; and (v) a detailed description of the circumstances in which the alleged violation occurred.<sup>34</sup>



### Working Group on Enforced or Involuntary Disappearances

The Working Group on Enforced or Involuntary Disappearances has a dedicated mechanism to deal with reprisals. Cases of intimidation, persecution or reprisal against relatives of missing persons, witnesses to disappearances or their families, members of organizations of relatives and other NGOs, and human rights defenders or individuals concerned with disappearances are transmitted to the States concerned with an appeal that they take steps to protect all fundamental rights of the affected persons. Cases which require prompt intervention are transmitted to the State as urgent actions.

*Source:* E/CN.4/2005/31, para. 3.



### Special Rapporteur on the situation of human rights defenders

The Special Rapporteur on the situation of human rights defenders (originally called Special Representative of the Secretary-General on the situation of human rights defenders) was mandated to “seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms”. This definition of human rights defenders encompasses a wide range of persons. It covers all those who voluntarily or professionally work with their local communities, in national or international organizations, or in the public administration and private sector, in a non-violent manner towards the realization of human rights principles. Most persons cooperating with human rights field presences, or with other United Nations human rights mechanisms, can be included in this definition. In fulfilling the mandate, the Special Rapporteur presents an annual report to the Human Rights Council on all the cases transmitted to Governments, including cases of reprisal and intimidation, and the responses received.

*Sources:* Commission on Human Rights resolution 2000/61. It followed the adoption, in 1998, by the General Assembly of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (resolution 53/144).

*Note:* Some regional protection mechanisms for human rights defenders are: the Special Rapporteur on Human Rights Defenders in Africa of the African Commission on Human and Peoples’ Rights; the Office of the Rapporteur on the Situation of Human Rights Defenders within the Executive Secretariat of the Inter-American Commission for Human Rights; the Commissioner for Human Rights of the Council of Europe; and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe.

<sup>34</sup> For more information, see [www.ohchr.org](http://www.ohchr.org).

## 15 Annual report on cooperation with United Nations human rights bodies

The annual report of the Secretary-General on “Cooperation with the United Nations, its representatives and mechanisms in the field of human rights” is a useful channel to bring to the attention of the Human Rights Council information regarding reprisals against persons cooperating with United Nations human rights bodies, including human rights field presences.

Each year the report is meant to present a compilation and analysis of any available information, from all appropriate sources, including special procedures, on alleged reprisals against individuals and groups that:

- Seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them;
- Avail or have availed themselves of procedures established under the auspices of the United Nations for the protection of human rights and fundamental freedoms, and all those who have provided legal or other assistance to them for this purpose;
- Submit or have submitted communications under procedures established by human rights instruments, and all those who have provided legal or other assistance to them for this purpose;
- Are relatives of victims of human rights violations or of those who have provided legal or other assistance to victims.<sup>35</sup>

Through this report, actions by specific Governments and non-State actors against persons who seek to cooperate or have cooperated with United Nations human rights bodies and mechanisms can be exposed and condemned, and recommendations can be made to address acts of intimidation and reprisal.

## 16 Relocation

When there are protection concerns, relocation should be considered only as a **last resort**.

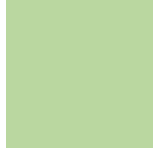
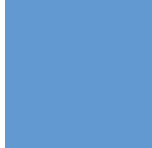
Relocation is an option in the context of witness protection programmes of national or international courts, particularly if the person providing testimony may be at considerable risk in his or her own community and the measures available are insufficient to ensure the person’s safety. Nevertheless, HROs, too, may have to deal with an extreme situation for which relocation may be the only solution to guarantee the safety of a cooperating person at risk.

As best practice, a person should be relocated from his or her region, and ultimately from his or her country of origin, only after all other measures to strengthen protection have been exhausted, including setting up a self-protection plan, cooperating with community networks or international organizations or, when appropriate, engaging with national authorities.

Relocation can take place either within the same country (particularly if it is large) or to a foreign country. In addition, it should be considered as a short-term or a long-term measure, depending on the nature and duration of the threat. For example, a cooperating person at risk can be relocated to another region during a volatile and tense run-up to elections, but be able to return home at a later stage.

<sup>35</sup> Human Rights Council resolution 12/2, para. 1.





Relocation within the country poses a range of **challenges**, but it is often easier than relocation abroad. While offering the highest level of protection, international relocation brings about a dramatic change in the life of a person and involves a level of hardship which many may find detrimental and impossible to sustain. The biggest drawback is the potential loss of contact with family and friends, removal from familiar cultures and the stress of living with a new identity.

Removing a person at risk from a potentially hostile environment usually requires **specialist personnel** and logistical arrangements. International relocation will also involve a formal agreement between the requesting State or organization and the host State, which should set out the obligations of both parties and the procedures to be adopted. The requirements of the requesting State or organization must be consistent with the national laws in the host country. In certain cases, the host country may still be required to provide additional assistance or make other security arrangements, such as integrating the relocated person in its national witness protection programme.<sup>36</sup>



## Nepal

OHCHR-Nepal facilitated the international relocation of a human rights defender who was under serious threat because he was a key witness in a human rights case being monitored by the field presence. The defender was initially moved by national NGOs from his region to the capital and there helped by other organizations to maintain a low profile and stay safe. OHCHR facilitated coordination among the different actors providing protection to the defender. However, as the level of risk remained high, a foreign embassy eventually arranged international relocation. The defender and his family were safely resettled abroad.

Most likely, HROs will be involved in such a process **mainly as a facilitator**, referring a person at risk to an organization or institution that can protect them through relocation. In this context, it is extremely important for HROs to have a good network of contacts among national and international NGOs, diplomatic missions and other United Nations agencies, and be completely aware of the options available and their limitations. However, HROs must remember that discretion is essential. The more people and agencies involved in the process, the higher the risk of disclosure of the whereabouts of the person, accidental or otherwise.<sup>37</sup>



## Democratic Republic of the Congo

The human rights component of MONUSCO facilitates the relocation within the Democratic Republic of the Congo of victims, witnesses and human rights defenders at risk. Sometimes, relocating such a person does not guarantee protection. The human rights component dealt with a case in which a witness, who had provided testimony in court and suffered reprisals from family members of the accused, had to be relocated twice. After being first moved to a remote location, the witness was, however, recognized and once again faced threats, which led to a second relocation to a different region.

<sup>36</sup> A/HRC/12/19, para. 55.

<sup>37</sup> A/63/313, para. 42.

One of the challenges of relocation programmes is ensuring that a person at risk can be effectively and safely resettled and integrated into a new community either within the country of origin or abroad. To this end, it is important for the person to have access to economic and social support, and opportunities for developing new professional skills and entering the workforce.

This will probably be easier if the relocation occurs within the same country. In such cases, HROs can contact key partners that may be able to provide different types of support. For example, a United Nations agency or NGO may have a project to distribute income-generating grants that can allow the relocated person to start a business. Other agencies or organizations may be instrumental in providing medical or psychosocial assistance. To the best of their capacity, HROs should regularly check on the safety and well-being of cooperating persons who have been relocated within the same country.

In situations of international relocation, HROs should clearly explain that their responsibility towards the cooperating person at risk ceases as soon as relocation occurs. Nevertheless, HROs can provide advice and reiterate to the entity facilitating the relocation the importance of having a structure for receiving the relocated person and supporting his or her integration in the new country. Organizations working with communities in the diaspora or with asylum-seekers may be important support structures. As relocation is complex, this protective option is considered only in exceptional circumstances and when other options have not been successful.



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# MANUAL ON human rights MONITORING

This chapter forms part of the revised *Manual on Human Rights Monitoring*. Following the success of its first edition, published in 2001, the Office of the United Nations High Commissioner for Human Rights has updated and restructured the *Manual*, to provide the latest and most relevant good practices for the conduct of monitoring work by human rights officers, under the approach developed and implemented by the Office.

The revised *Manual* provides practical guidance for those involved in the specialized work of human rights monitoring, particularly in United Nations field operations. This publication comprehensively addresses all phases of the human rights monitoring cycle, setting out professional standards for the effective performance of the monitoring function. It also outlines strategies to maximize the contribution of monitoring to the protection of human rights.

While each chapter has been made available separately, linkages with other chapters are highlighted throughout. A full reading of the *Manual* is thus recommended for a comprehensive understanding of human rights monitoring.

This tool has been tailored to the everyday needs of United Nations human rights officers in the field. The methodology it sets out would, nonetheless, be of equal relevance to others tasked with human rights monitoring functions. Its wider use and application by regional organizations, national human rights institutions, non-governmental organizations, relevant governmental bodies and others is strongly encouraged.



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