

From:

Sent: 28 March 2019 16:03

To: Reprisals OHCHR <reprisals@ohchr.org>

Subject: US Response to Request for contribution on good practices regarding intimidation and reprisals

SUBJECT: U.S. Submission to Reprisal Questionnaire

In the United States, civil society partners are among our best advocates and harshest critics, and always push us to strive harder to improve our own domestic situation. Vibrant civil society is an essential foundation of lasting security and prosperity. We welcome NGOs with a wide variety of opinions and advocate for those with differing views from our government to ensure an open dialogue and exchange of all perspectives. We regularly consult with U.S. NGOs about our engagement in UN and other international fora.

There is generally very little restriction on expression and association of NGOs under U.S. law. The U.S. Constitution provides for robust protections for freedom of expression and leaves open space for debate. Many NGOs in the United States are qualified as exempt from state and federal taxes. This legal status makes it easier for NGOs to operate as nonprofit organizations, because they do not have to pay tax on the income (funding) they receive. The federal and state governments do not judge the value of an organization's specific activity or mission in determining that these organizations are eligible for tax-exempt status. Although NGOs engaged in certain political activities may not qualify for the most preferential tax-exempt status, the U.S. government does not prevent NGOs from undertaking advocacy for political issues or criticizing the government.

Protecting and supporting civil society actors is a key priority of U.S. foreign policy. The United States seeks to enable human rights defenders to promote and defend human rights without undue restriction and free from fear of retribution against them or their families. We push back against new legislation in countries around the world that would require members of civil society to register as "foreign agents" for simply receiving foreign funding or force them to jump through onerous hurdles to be recognized or allowed to operate by the government. Human rights officers in our embassies and consulates help ensure we are listening to the wide range of civil society actors' and defenders' views. The annual U.S. Country Reports on Human Rights Practices and the annual International Religious Freedom Reports highlight the difficulties facing civil society. In addition, we continue to take a range of public and private actions to promote accountability for those who seek to target, harass, or harm civil society actors, including, as appropriate, tools like economic sanctions and visa restrictions.

The U.S. Government is one of 18 contributing donors to The Lifeline: Embattled Civil Society Organizations (CSOs) Assistance Fund, which has supported the mandate of

the Special Rapporteur on Human Rights Defenders by facilitating and organizing meetings for the current rapporteur and human rights defenders around the world. Special Rapporteur Forst also raises cases of reprisals with Lifeline, and the Donor Steering Committee hopes to continue this exchange of information with the UN more broadly in order to identify and respond in a timely fashion to specific cases. Lifeline is able to provide emergency financial assistance to members of civil society who have been victims of reprisals, including but not limited to temporary relocation, legal assistance and dependent support.

Globally, the United States is concerned that civil society actors and human rights defenders continue to face harassment, intimidation, and attacks for doing work that is integral to protecting the rule of law and democracy. Some UN Member States continue to pass NGO laws that unduly restrict freedoms of peaceful assembly, association, and expression. We are also deeply concerned that some states exercise reprisals against civil society actors for cooperating with the United Nations. For example, human rights defenders face reprisals for participating in their country's Universal Periodic Review (UPR) in Geneva and bans on their travel to official UN meetings. Further, the UN Economic and Social Council's Committee on NGOs increasingly delays action on no valid basis, which stifles civil society voices in the UN. The United States supported the appointment of Andrew Gilmour as the UN Assistant Secretary-General for human rights who leads UN efforts against reprisals. We also strongly support the mandate of the Special Rapporteur on the situation of Human Rights Defenders.

In other multilateral and intergovernmental organizations and associations, such as the Community of Democracies, the United States helps formulate coordinated efforts to address threats to civil society. Furthermore, at the Organization of American States (OAS), we strongly support General Assembly resolutions addressing freedom of expression and association issues, and we actively promote the registration of credible civil society organizations to participate in OAS meetings and events. We also have a long history of support for the Inter-American Commission on Human Rights' work on human rights defenders and freedom of expression.

The United States encourages others to fund capacity-building projects and programs that assist countries to strengthen their national-level legislation to protect human rights defenders and civil society. The United States welcomes that special rapporteurs, such as those working on the protection of human rights defenders, freedoms of peaceful assembly and association, and freedom of expression, issue joint-statements on threats to civil society and defenders, and encourage them to continue doing so. We continue to encourage States to present recommendations to other States under UPR review that are responsive to threats against civil society and human rights defenders.

The United States condemns all acts of intimidation or reprisal by States and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives, and its mechanisms in the field of human rights. We urge UN Member States to take all possible measures to encourage the engagement of NGO and civil society actors in the UN's work, including removing or

refraining from imposing arbitrary measures designed to prevent their participation. As the challenges and threats to civil society actors increase, a multi-stakeholder approach to technical assistance and coordinated public efforts to bring attention to this situation can have a significant impact. The international community, including the UN, must redouble its efforts to counter threats to human rights defenders and to ensure that the rights of human rights defenders are protected and promoted.

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