MANUAL ON human rights MONITORING

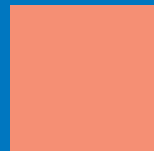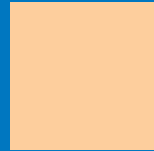# ENGAGEMENT AND PARTNERSHIPS WITH CIVIL SOCIETY

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER
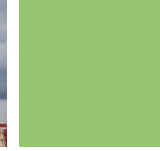
ENGAGEMENT AND PARTNERSHIPS WITH CIVIL SOCIETY

A. Key concepts

- Civil society actors are defined as individuals who voluntarily engage in various forms of public participation and action around shared interests, purposes or values that are compatible with the goals of the United Nations.

- Field presences engage with civil society actors, on the one hand, to empower them to contribute to the realization of human rights and, on the other, to protect those at risk because of their human rights activities.

- Engagement with civil society is key to bringing about change in the protection and promotion of human rights, and to ensuring durable human rights protection at the national level.

- In the context of human rights monitoring, field presences can engage with civil society from different angles: (a) by monitoring the situation of civil society actors, i.e., assessing their presence and capacity, their protection concerns and the environment (enabling or not) in which they operate; and (b) by having civil society actors act as partners in all stages of the monitoring cycle.

- The protection of civil society actors under threat is the responsibility and concern of the field presence and its entire staff. Field presences should devise protection strategies to respond to risks and threats affecting civil society actors.

B. Introduction

For the purpose of this *Manual*, civil society actors are individuals who voluntarily engage in public participation and action around shared interests, purposes or values that are compatible with the goals of the United Nations.[1]

Civil society encompasses a variety of actors, such as:

- Human rights defenders;
- Human rights organizations (e.g., non-governmental organizations (NGOs), associations, victims' groups);
- Networks or coalitions (e.g., focusing on women's rights, migrants' rights, environmental issues);
- Social movements (e.g., peace movement, landless persons);
- Community-based organizations (e.g., of indigenous peoples, minorities);
- Faith-based groups (e.g., churches, religious groups);
- National or international NGOs;
- Unions and professional associations (e.g., trade unions, bar associations, journalists' associations);
- Academic institutions (e.g., universities, research bodies).

The range of civil society actors in a country most often reflects the characteristics, tensions and divisions within that society. Even if the interests, purposes and values of some actors are not consistent with those of the field presence or the United Nations, these actors would not cease to be part of that country's civil society. Engaging and developing partnerships with civil society are therefore challenges that human rights officers (HROs) should address in a consistent and principled manner, while appreciating the shortcomings and strengths of the groups they interact with. HROs should take a broad view of the relevant areas of interest and motivations of civil society actors, and not limit their interaction to explicitly labelled human rights organizations.

Human rights defenders are a group of specific and strategic interest, and key partners for field presences. Human rights defenders include all those who, individually and in association with others, act to promote and protect human rights and fundamental freedoms at the national and international levels.[2] Their empowerment and protection to further promote and protect human rights are fundamental building blocks in improving the human rights situation in a specific country.

In its engagement with civil society, OHCHR is dedicated to building knowledge and skills related to international human rights standards, and promoting civil society participation in decision-making processes. OHCHR is also dedicated to protecting civil society's space. States have the primary responsibility to protect civil society actors. When they, or their space, are at risk because of their work to advance human rights, the international community, including OHCHR, has a shared responsibility to support and protect them.

This chapter deals with monitoring the situation of civil society actors, protecting them and establishing partnerships with them in the context of human rights monitoring.

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1 OHCHR, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society* (Geneva, 2008), p. vii. Available from www.ohchr.org.

2 See article 1 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 (known as the Declaration on human rights defenders). See also OHCHR *Fact Sheet No. 29: Human Rights Defenders*, available from www.ohchr.org.

C. Civil society and human rights monitoring: a relationship of complementarity with field presences

Civil society actors are fundamental partners for the human rights field presence. A strong and autonomous civil society, able to operate freely and knowledgeable on human rights is a key element in securing sustainable human rights protection at the national level and in ensuring that a State is accountable for fulfilling its human rights obligations.

However, even if in many situations civil society is mobilized and reacts to human rights violations committed by State or non-State actors, the opposite also occurs, when civil society action is constrained or inhibited by both repression and fear. This can become a vicious circle, with restrictions on public or organized activity limiting the capacity of a society to respond to or denounce those individuals or institutions responsible for human rights violations.
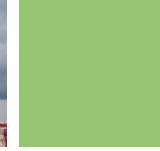
The field presence has a role in creating and strengthening conditions for the **empowerment and protection of civil society actors** to strengthen their long-term capacity to claim the human rights of various groups and individuals, without fearing retaliatory measures.

In human rights monitoring, empowering and protecting civil society actors means, inter alia:

- Understanding civil society and the environment in which it operates;
- Monitoring their situation and assessing the risks affecting them, including by monitoring individual cases;
- Devising protection measures;
- Engaging in human rights monitoring in partnership with them; and
- Building or strengthening their human rights monitoring capacity.

Field presences and civil society actors engaged in human rights promotion and protection are in a relationship of complementarity, in which the strengths of one should be fully exploited to compensate the weaknesses of the other. For instance, field presences can benefit from civil society actors' long-term presence, knowledge of the local context and direct access to rights holders. Typically, when HROs undertake monitoring activities, local organizations can be an important source of information on the human rights situation in remote areas or facilitate contact with victims and witnesses of human rights violations.

In turn, field presences may be able to fill civil society's gaps in capacity and resources, knowledge on human rights and access to national (e.g., authorities) or international stakeholders (e.g., diplomatic missions) or human rights mechanisms. Moreover, field presences can play a crucial role in providing protection to civil society actors at risk through, for instance, presence and visibility (e.g., visiting premises of civil society actors at risk) or by amplifying their voice at the international level.

D. Monitoring the situation of civil society actors and protection measures

In each country, civil society actors have distinct modes of functioning, levels of leadership and influence, security concerns associated with their activities, capacity to interact with the international community, priorities and areas of expertise. HROs should monitor this reality, assess the environment in which civil society actors operate and devise protection and engagement strategies on that basis.

1 Analytical tools

HROs can use a series of **tools to analyse** the situation of civil society, such as:

- An **actor mapping of civil society** to identify the key actors and understand who they are, what the power relationships and channels of influence among them and between them and other actors are, and what their potential or real impact on the human rights situation or on a specific problem is;
- A **human rights risk equation** to identify and analyse the threats, vulnerabilities, commitments and capacities of either civil society as a whole or of a particular group (e.g., journalists, women's groups). Such a risk equation will help HROs focus, on the one hand, on mitigating the threats against civil society actors as well as their vulnerabilities and, on the other, on strengthening the capacity of civil society actors and duty bearers, and the commitment of the latter (see chapter on *Analysis* 📖).

2 Parameters to assess the situation of civil society

When monitoring the situation of civil society, HROs can use several parameters to assess the space that civil society actors have, their ability and constraints to use it, as well as the risks they face in undertaking their work. Monitoring their situation means gathering and analysing information on:[3]

(a) Legislation and enabling environment
- Compliance of relevant legal framework with human rights principles, particularly with respect to the rights instrumental to the activities to defend human rights—freedom of peaceful assembly, freedom of expression and opinion, freedom of association, trade unions' rights, including the right to strike, and access to information;
- Effective enjoyment of rights and freedoms by civil society actors (e.g., the legislation may be compliant with human rights principles, but civil society actors may not be able to enjoy their rights because of State repression, see below in sect. 3);
- Existence and effectiveness of independent national human rights institutions;
- Level of collaboration between civil society and national authorities, including consultation and participation of civil society in decision-making (e.g., laws, policies);
- Existence of national and/or regional policies relevant to civil society (e.g., national plan of action on human rights, policy on collaboration with civil society, human rights education policies or programmes);
- Overall attitude of national authorities and the political establishment towards civil society (e.g., in public statements).

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3 Adapted from A/HRC/7/28, paras. 75–78.

(b) Presence and capacity

– Number and types of organizations (e.g., formal organizations, informal groups);
– Types of activities (e.g., awareness-raising, monitoring and reporting, legal aid, research, capacity-building and human rights education);
– Level of activities and outreach (e.g., local, regional, national, international);
– Capacity to access national, regional and international human rights mechanisms;
– Degree of transparency, objectivity and accuracy in the work of civil society actors.

(c) Gender dimension

– Level of participation, organization and representation of women in civil society;
– Prominence of women's rights on the agenda of civil society;
– Patterns of gender-based human rights violations against civil society actors.

(d) Non-discrimination

– Level of participation, organization and representation of civil society actors belonging to or working on the rights of discriminated groups (e.g., minorities, lesbian, gay, bisexual and transgender (LGBT) persons, persons with disabilities, indigenous peoples, migrants);
– Prominence of equality on the agenda of civil society;
– Patterns of human rights violations against civil society actors belonging to or working on the rights of discriminated groups.

(e) Coordination

– Level of coordination and solidarity among civil society actors;
– Existence and effectiveness of common goals and strategies agreed upon by civil society actors;
– Existence of networks or platforms on thematic areas, at different levels (e.g., from local to international), across sectors of civil society (e.g., social movements, NGOs, academics, professional associations).

(f) Funding

– Availability of funding opportunities, within and outside the country;
– Capacity of civil society actors to obtain funding;
– Possibility of setting own priorities, instead of being donor-driven.

(g) Security

– Incidence and types of attacks and threats against civil society actors;
– Availability and effectiveness of protection programmes and measures led by national authorities, or national or international NGOs.

(h) Impunity of violations

– Incidence and type of human rights violation against civil society actors;
– Accessibility by civil society actors to corrective action and remedy;
– Frequency, quality (prompt and impartial) and outcome of investigations and prosecutions sanctioning violations against civil society actors and providing compensation to victims;
– Existence, accessibility and effectiveness of independent oversight mechanisms for violations committed by national authorities (e.g., within police).
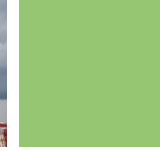
An assessment based on these parameters, even if it does not cover all the elements outlined above, can be a benchmark against which progress or setbacks in the situation of civil society can be monitored.

Field presences should base both their engagement and their protection strategies with civil society actors on the findings of monitoring and not on intuition, routine or isolated incidents or events.

Sections 3 and 4 below expand on two critical aspects of risks and threats affecting civil society actors: the use or misuse of legislation and regulations to curtail their space; and the heightened risks faced by some.

3 Restricting civil society through legislation

The space for civil society to function is often regulated through national laws and policies. Such legal framework may be repressive or exceedingly restrictive so as to curb civil society actors and prevent them from being formally organized or having a voice in society. For example, in order to exercise greater control over civil society groups and closely monitor their activities, the national authorities may insist that all groups, however small or informal, have to register and provide regular reports to the ministry of information.

Laws and regulations can be applied in a manner that hampers the work of civil society actors. For example:

■ Restrictions on freedom of association, limiting civil society actors from organizing themselves either formally or informally;

■ Restrictions on accessing information, especially in relation to State actions;

■ Restrictions on freedom of peaceful assembly;

■ Restrictions on access to foreign assistance or funding, as a means to reduce external influence;

■ Excessive control over civil society registration, for instance by making it too expensive and burdensome, or requiring re-registration every few years permitting authorities to periodically revisit and decide whether an organization is allowed to function or not;

■ Substantial discretion by the authorities to close down and dissolve civil society organizations on a variety of grounds (e.g., perceived as acting against national security, accused of disturbing public order or of being against public morals);

■ Holding representatives of civil society organizations criminally or administratively liable for some of their activities (e.g., for purported breaches of administrative regulations on their registration or being charged with defamation or blasphemy).[4]

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4 The International Center for Not-for-Profit Law reports on legal barriers to civil society organizations. See, for instance, those identified in "Defending civil society: report", June 2012, pp. 14–33. Available from www.icnl.org/research/resources/dcs/DCS_Report_Second_Edition_English.pdf (accessed 30 January 2013).
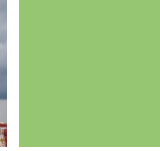
Cambodia

In 2007, the Cambodian Government introduced a draft law on NGOs that imposed numerous restrictions. OHCHR-Cambodia facilitated the establishment of a working group of civil society representatives to comment on the draft law and assess its compatibility with international human rights law. OHCHR-Cambodia advocated the adoption of civil society proposals by the Government and used the visits of the Special Rapporteur on the situation of human rights in Cambodia towards this end. It also advocated that the Government should hold meaningful consultations with civil society representatives from all sectors.

As part of their monitoring activity, HROs should gather complete information and thoroughly analyse existing NGO framework laws, counter-terrorism legislation or any other laws, including criminal laws, that may be relevant to creating an enabling environment for civil society or to hampering it, to determine which provisions do not conform with international human rights standards. Such an assessment should guide the field presence in developing an advocacy and/or advisory strategy for the repeal, adoption or improvement of relevant laws, either openly and possibly jointly with civil society or discreetly through quiet diplomacy. Reports and recommendations of human rights mechanisms, particularly the Special Rapporteur on the situation of human rights defenders or the Special Rapporteur on the rights of freedom of peaceful assembly and of association, can be a good reference for such advocacy strategies.[5]

The field presence may encounter a number of challenges when advocating against overly restrictive laws and other measures affecting civil society. For example, HROs may have to deal with a situation where the national authorities lack the political will to review the laws in question, or where the local population does not sympathize with the process because of a general perception that human rights defenders or other civil society groups are "troublemakers", "criminals" or "enemies of the nation". In such environments, the field presence may have to combine advocacy with awareness-raising activities and public information on the situation of civil society actors, and the risks they face in their work.

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5   See reports by the Special Rapporteur on the situation of human rights defenders discussing the various approaches used in repressive NGO legislation, outlining good practices and recommendations on laws regulating NGOs or analysing legislation regulating the activities of human rights defenders (A/64/226, A/59/401 and A/67/292, respectively). In his 2012 report, the Special Rapporteur on the rights to freedom of peaceful assembly and of association identifies best practices on these two rights (A/HRC/20/27).

Mexico

In 2009, OHCHR-Mexico issued a public report on the situation of human rights defenders.[a] The report aimed at highlighting the work of civil society actors and the challenges they face, with a view to raising their profile and mobilizing support for those at risk. The report documented the risks many human rights defenders faced and the failure of the authorities to provide adequate protection and assistance to victims or to hold the perpetrators to account. As a result of the report, more national attention has been focused on the problem and some institutions, including the National Human Rights Commission, have taken steps to strengthen their own work in this area. In addition, the "I declare myself" campaign launched by OHCHR-Mexico in 2011 is a good example of visibility for defenders (www.yomedeclaro.com). In April 2012, Mexico adopted the law establishing the National Mechanism for the Protection of Human Rights Defenders and Journalists.

[a] The report is available from www.hchr.org.mx/files/doctos/Libros/2010/L241110b.pdf (accessed 30 January 2013).

Recommendations on laws regulating NGOs

In her 2004 report to the General Assembly (A/59/401), the Special Representative of the Secretary-General on the situation of human rights defenders made a number of recommendations to ensure that any laws adopted to regulate NGOs conform with the Declaration on human rights defenders. Here are some of the recommendations:

- NGO laws should be written and implemented to allow for the quick, easy and inexpensive creation of organizations and the acquisition of legal personality;
- On registration
  - Registration should not be compulsory. NGOs should be allowed to exist and carry out collective activities without having to register if they so wish;
  - Regimes of declaration are preferable to registration;
  - Registration processes must be expeditious;
  - Decisions on registration, including on denial of registration, should be fully explained and cannot be politically motivated;
  - Procedures and criteria for registration must be clear and publicly accessible;
  - Documents required for registration should not be unnecessarily burdensome;
  - If a new law is adopted, all previously registered NGOs should be considered as continuing to operate legally and provided with accelerated procedures to update their registration;
- Governments must allow NGOs access to foreign funding;
- Presumption of legality. NGOs should be presumed to be operating legally until it is proven otherwise;
- Suspension. Government authorities should not be granted the power to arbitrarily suspend the activities of human rights groups. The courts alone should be entitled to order a suspension, and only in situations of clear and imminent danger that could result directly from such activities and that is objectively ascertained;
- Dissolution. Actions by the Government against NGOs must be proportionate and subject to appeal and judicial review. Administrative irregularities or non-essential changes in the specifics of an organization should never be considered as sufficient grounds for closing it down.

4 Civil society groups potentially at risk

Certain communities or groups within civil society may be at greater risk of threats and attacks owing to **discrimination, stigma or isolation**. For example, depending on the local context and human rights situation, groups working on women's rights or LGBT rights may be labelled as being against society's traditions and values; groups working with discriminated minorities may be considered antinational; journalists and other media workers may be accused of inciting discontent for writing about poverty or corruption in the Government; defenders working on human rights and land may touch economic interests and this can put them at risk.
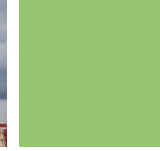
It is thus essential that HROs not only identify the groups and individuals within civil society exposed to higher risks, but also regularly monitor any political developments, policies and social practices that may make their isolation and stigma worse. Based on this knowledge, HROs should be able to devise protection strategies with the dual purpose of preventing violence, but also of responding to threats and attacks when they do occur. For example, protective measures may be established pre-emptively before or during election periods, when certain civil society actors face specific risks.

Colombia

Since 2009, OHCHR-Colombia has accompanied a national dialogue between high-level representatives of the State and human rights organizations for the establishment of guarantees for human rights defenders (Mesa Nacional de Garantías). This process was set up in response to a deep sense of mistrust between human rights organizations and the State caused by the ongoing threats and attacks against human rights defenders (including by State agents) and the lack of effective protection. A series of round tables aimed to identify risk factors and possible solutions. In this process OHCHR is a partner to both civil society and the State. It supports the building of trust and active dialogue and also shares its assessment of the situation of human rights defenders and possible measures to improve it. In August 2011, for example, its HROs moderated working groups of representatives of State institutions and civil society in an effort to clearly define the responsibilities which the State agreed to during the process. In addition, OHCHR-Colombia has accompanied regional events during which the Minister of Interior Affairs publicly recognized the legitimacy and importance of the work of human rights defenders and reminded local State representatives of their duty to protect them.

Civil society groups working in **countries in conflict** may also be more exposed to threats and retaliation. For instance, in an internal conflict, groups working in contested areas are often suspected of collaborating with the armed group that controls the territory. Each time territorial control shifts, in either direction, these suspicions can have serious consequences for the actors working there.

> **Nepal**
>
> When OHCHR-Nepal was established in 2005, it made a strategic decision to prioritize the protection of human rights defenders, enabling them to build a strong protection network across the country. OHCHR-Nepal actively responded to threats faced by human rights defenders and supported the creation of a human rights house, through which Nepalese defenders could organize themselves and convene in greater safety. As a result of this strategy, OHCHR-Nepal established a relationship of trust with a broad network of contacts and this strengthened its protection activities.

Other civil society groups and individuals potentially at risk are those **engaging with or participating in the human rights mechanisms** (e.g., Human Rights Council and the universal periodic review, treaty bodies and special procedures mandate holders). Such groups or individuals may be exposed to danger, harassment or intimidation.

HROs should assist and closely monitor the participation of civil society organizations in human rights mechanisms. HROs need to be aware of the circumstances in which civil society actors would be more likely to be exposed to risk. In such circumstances, HROs must ensure that when encouraging civil society actors to engage with mandate holders or any other human rights mechanism, they do not overlook the necessary protective measures (e.g., proper planning, minimizing exposure, protection of information).

When there are reports of attacks against NGO representatives who have, for instance, been active at a session of the Human Rights Council or a treaty body based in Geneva, it is crucial to have a close exchange of information between OHCHR headquarters and the field presence, in order to facilitate immediate and active follow-up at both the national and international levels.[6]

5 Protective measures for civil society actors

Protecting civil society actors under threat falls within the responsibility and concern of the field presence and its entire staff. HROs should give immediate priority to protection concerns involving a civil society actor because of his or her human rights activities and take measures within their mandate to respond appropriately.

The first and most important protection measure is **prevention**. HROs should take preventive measures to avoid endangering civil society actors because of their interaction with them in the framework of human rights monitoring or, more broadly, as part of the human rights work of the field presence. It is useful to recall that, when engaging with civil society actors, HROs must always respect the basic principles of **confidentiality** and **do no harm**. HROs must never encourage civil society actors to put themselves at risk, nor should they raise false expectations by exaggerating the ability of the field presence to ensure their protection should they face threats or reprisals (see chapter on *Protection of victims, witnesses and other cooperating persons* 📖).

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6   Cases of alleged reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights are compiled yearly in a report of the Secretary-General (see, for instance, A/HRC/21/18).
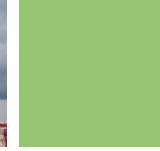
Whenever HROs receive or gather information regarding a civil society actor at risk, they must follow a thorough methodology to verify the allegations of threats or reprisals and subsequently determine which protective measures should be implemented (for guidance on which aspects to consider when establishing a protection strategy, see chapter on *Protection of victims, witnesses and other cooperating persons* 📖). In close consultation with the civil society group or person at risk, the **protection measures can follow these steps**:

- Regularly assessing the risk;
- Verifying the facts surrounding the allegations of threats or reprisals, including the source of the threats;
- Assessing if immediate protective action is required considering the nature and seriousness of the threat, the vulnerability of the person at risk and his or her own 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 into practice;
- Working closely with the person at risk and relevant partners in implementation, regular review and follow-up;
- Closing the case when it is deemed that the threat no longer exists or the risk has been minimized to an acceptable level.

A protection strategy may encompass **initiatives taken by the field presence alone, jointly with other partners in the country** (e.g., local civil society organizations, international NGOs, United Nations agencies, the diplomatic community), or **in collaboration with international and regional human rights mechanisms and bodies**. HROs have to be familiar with the available **protective measures that can be taken to assist civil society actors under threat**, such as:

- Strengthening the capacity of the civil society actor for self-protection;
- Supporting or establishing community-level protection networks;
- Mobilizing efforts to directly or indirectly provide physical protection to the civil society actor at risk, including through relocation (in exceptional circumstances);
- Using visibility strategies with a deterrent effect;
- Seeking the support and intervention of relevant protection partners and international mechanisms, such as international NGOs, diplomatic missions, United Nations agencies or special procedures;
- Reducing the vulnerability factors of the civil society actor at risk (e.g., reducing public exposure for some time, avoiding certain locations);
- Intervening to influence or affect the behaviour/attitude of the source of the threat;
- Requesting an influential person, for instance a religious, community or political leader, to intervene with the source of the threat;
- Advocacy and engagement with national authorities, stressing their human rights obligations, including their duty to protect those at risk and to prosecute offenders;
- Accompanying the person(s) at risk;
- Visiting civil society actors detained for their human rights activities;
- Observing trials of civil society actors prosecuted because of their human rights activities;
- Capacity-building and technical cooperation directed at developing or improving national witness protection, as well as accountability mechanisms, or directed at raising awareness of the tools and methods that could be used by civil society actors to bolster their own security.

Democratic Republic of the Congo

In the Democratic Republic of the Congo, where impunity is a major concern and State capacity for witness protection limited, the human rights component of the United Nations Organization Mission (MONUC) cooperated closely with provincial human rights organizations to address cases of victims or witnesses of serious human rights violations at risk because of their participation and testimony in trials. It also held regular training courses with its national partners to fill methodology and capacity gaps, take stock of lessons learned and create a sustainable network of NGOs which could address protection issues without the support of the MONUC human rights component.

Special Rapporteurs on the situation of human rights defenders and on the rights of freedom of peaceful assembly and freedom of association

The protection of human rights defenders is explicitly supported by the *Declaration on human rights defenders*. This commitment was further strengthened in 2000 with the appointment of the **Special Rapporteur on the situation of human rights defenders**, who 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".[a] In fulfilling the mandate, the Special Rapporteur presents an annual report to the Human Rights Council on all the cases transmitted to States, including cases of reprisal and intimidation, and the responses received. Every year, the Special Rapporteur raises several hundred such cases around the world.[b]

In 2010, the Human Rights Council established the mandate of the Special Rapporteur on the rights of freedom of peaceful assembly and freedom of association. The Special Rapporteur is mandated, inter alia, to gather national practices and experiences relating to the promotion and protection of these rights and to study trends, developments and challenges in relation to their exercise.[c]

[a] Resolution 2000/61 of the Commission on Human Rights.

[b] See the OHCHR web page on the Special Rapporteur: www.ohchr.org/EN/Issues/SRHRDefenders/Pages/ SRHRDefendersIndex.aspx (accessed 19 February 2012). See also OHCHR *Fact Sheet No. 29: Human Rights Defenders*, which describes the roles of human rights defenders and the ways in which the Special Rapporteur can protect them.

[c] See the OHCHR web page on the Special Rapporteur: www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/ SRFreedomAssembly AssociationIndex.aspx (accessed 19 February 2012).
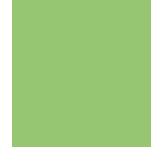
E.   Developing partnerships with civil society

1   Engagement

HROs should engage in an open dialogue with civil society. Such a dialogue can be the basis for moving from a situation where civil society actors are the object of monitoring to one where they are partners in monitoring activities.

An analysis of the **strengths, weaknesses, opportunities and threats** (SWOT) of either the relation between the field presence and civil society or of each separately can be useful when devising engagement strategies with civil society. The SWOT analysis can help to understand which aspects of the field presence's and civil society's action have the potential to be mutually reinforcing or complementary. Additionally, it outlines what needs to be tackled in order to create an environment where civil society can thrive and encourage constructive partnerships between civil society and the field presence.

In the SWOT analysis, the strengths and weaknesses usually concern internal aspects of the organization, while the opportunities and threats generally relate to the external environment. The following guiding questions can be considered:

(a) Strengths
   – What are the strengths of the civil society actors? What are those of the field presence? Are they different or similar? What does each of them do well?
   – What are the capacities and/or the resources that the civil society actors can draw on? What are those of the field presence? Are they different or similar?
   – What are others likely to see as the strengths of the field presence/civil society actors?

(b) Weaknesses
   – What are the shortcomings/limitations of the field presence/civil society actors?
   – What could be improved?
   – What are others likely to see as the weaknesses of the field presence/civil society actors?

(c) Opportunities
   – What opportunities are available to the field presence/civil society actors?
   – What are the openings at the international, national or local levels that can benefit the activities or role of civil society?
   – How can the field presence/civil society turn their strengths into opportunities?
   – Would new opportunities be open if the weaknesses of the field presence/civil society actors were eliminated?

(d) Threats
   – What are the obstacles that the field presence/civil society actors face?
   – To what threats are the field presence/civil society actors exposed as a result of their weaknesses?
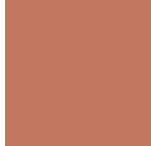
Below is an illustration of the application of this analytical tool. It is generic and corresponds to what is found in many countries, though not in all. When using the tool, HROs should be more specific and contextualize their analysis.

STRENGTHS

Civil society

- Knowledge of local context
- Outreach on the ground
- Trust from communities
- Access to right holders and victims of violations
- Long-term presence

Field presence

- Advocacy capacity
- Access to national authorities, the international community and human rights mechanisms
- Capacity to mobilize resources
- Knowledge of human rights issues
- Credibility

WEAKNESSES

Civil society

- Limitations in types of activities (e.g., only focused on a set of rights, or only raising awareness but not monitoring)
- Inadequate human rights knowledge
- Infighting or competition among civil society actors
- Absence or limited coordination mechanisms and networks
- Limited financial resources

Field presence

- Limited knowledge of local context
- Limitations in reaching out to remote communities
- Limitations in the mandate, priorities and resources
- Engagement only with a limited number of civil society actors
- High turnover

OPPORTUNITIES

- Information sharing
- More comprehensive follow-up to recommendations of international human rights mechanisms
- Greater outreach and coverage for human rights promotion and protection
- Capacity-building for and with civil society
- Greater protection of civil society actors
- Amplification of the voice of civil society

THREATS

- Repressive environment for civil society to operate
- Restrictive legal framework
- Perception of partiality or bias
- Political influence and pressure
- Reinforced exclusion of some sectors of civil society
- Attacks and threats against civil society actors
- Activities are mainly donor-driven
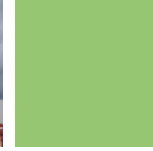
A useful approach when establishing partnerships with civil society is to **invest time in engaging in a *dialogue* with a wide range of actors**. This process should be pursued even at the most basic level, through informal contacts or social encounters. For instance, when visiting a community or contacting key organizations or individuals (e.g., community or religious leaders), HROs should attempt to gather information on different levels of organization of civil society, the leadership structures and networking mechanisms, but also seek introductions to new relevant contacts. Using the referral of established contacts to reach out to other contacts within civil society is a good tactic, as the new contacts might be more willing to engage with HROs introduced by someone they already know and trust.

Central Asia

In 2010, the OHCHR Regional Office in Central Asia organized a regional workshop for civil society actors from the five countries its mandate covers, to facilitate regional networks and further build the capacity of civil society for engaging with international human rights mechanisms. The workshop included training on physical and IT security delivered in cooperation with international NGOs to respond to needs identified prior to the workshop.

Building mutual *trust* is essential when developing partnerships with civil society. It should not be assumed that trust exists automatically. HROs need to consider carefully the perceptions that civil society actors may have of the international community, the United Nations or the field presence. For instance, they may perceive the field presence to be unwilling to engage on some issues because it is "too pro-governmental", or to demonstrate poor or superficial analysis of the situation, or to show a lack of cultural sensitivity. This may lead to alienation.

HROs must always maintain a credible, reliable, accessible and non-partisan image (see chapter on *Basic principles of human rights monitoring* 📖). Depending on the context, HRO contacts with civil society may need to focus initially on establishing rapport and breaking down barriers of mistrust before engaging in constructive partnerships. HROs should strive to diversify their network of contacts and sustain relationships across the spectrum of civil society actors.

HROs should also ensure that their formal and informal messages **do not inadvertently exacerbate the stigmatization and isolation of certain groups within civil society**. For example, in some countries, discrimination on the basis of sexual orientation and gender identity is not considered a human rights issue. This may lead to the marginalization of organizations working on the rights of LGBT persons by the human rights community. HROs should be aware of such dynamics and avoid reinforcing exclusions in their interaction with civil society actors.

HROs must communicate clearly and transparently with civil society and not raise false or unrealistic expectations with regard to the field presence's range of action, level of impact and protective role. Misunderstandings may reinforce existing misperceptions, lead to mistrust or even result in harm to civil society partners. For example, if local organizations overestimate a field presence's response capacity, they may take excessive risks.
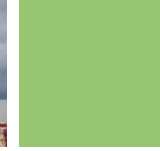
Relationships between civil society actors and the field presence can become strained owing to **perceptions of partiality**. It may occur, for instance, that national NGOs have strong and obvious political affiliations that affect their impartiality.[7] Or divisions and struggles within civil society may result in intolerance of different ideas, religions or ethnicities. HROs should assess these situations carefully. HROs may at times choose not to associate themselves with certain civil society actors if their biases are likely to affect the field presence's image of impartiality and independence. However, HROs must be flexible enough to recognize that civil society actors that make important contributions to human rights protection can also have biases. HROs need to consider any potential damage to their credibility or related risks when deciding to enter into a partnership with civil society actors that are clearly partial. Likewise, HROs must ensure that they do not pressure civil society actors to engage if they do not feel safe doing so.

In some situations, **civil society actors may have fewer constraints than field presences to work on sensitive issues or to engage with problematic stakeholders** (e.g., non-State armed groups or de facto authorities). In those cases, field presences can support the activities of civil society without becoming actively involved themselves.

Sudan

In the Sudan, civil society groups enjoyed only limited freedom prior to the signing of the Comprehensive Peace Agreement in 2005. Many groups were functioning but were mainly linked to the Government. However, some of them had been partners in the technical assistance programmes of OHCHR and had gained experience in human rights. After the signing of the Agreement and the adoption of the Interim Constitution, many autonomous groups working on human rights emerged. In 2005, when the Human Rights Division of the United Nations Mission in the Sudan (UNMIS) sought to work with civil society groups, it could not, in public meetings, exclude long-standing groups since this would demonstrate partiality and defeat the purpose of facilitating an open debate among civil society actors in the Sudan. The Human Rights Division decided to engage with both long-established and new, independent groups, but aware of existing biases, it took specific measures not to compromise the safety and security of independent actors.

HROs should also **avoid delegitimizing local capacities or replacing civil society actors in their activities**. For example, if a local NGO is already raising awareness and carrying out outreach activities on human rights in a region, HROs should support it, instead of undertaking parallel human rights campaigns. Moreover, care should be taken not to drain civil society of skilled professionals by recruiting them to work for the field presence.

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7   Some of these organizations are referred to as Government-organized NGOs ("GONGOs") to emphasize the strong role played by some Governments in setting them up, ensuring funding, controlling their activities, etc.

When *developing partnerships* with civil society, HROs should:

- Support the activities of civil society for furthering human rights objectives;
- Ensure that the work of the field presence strengthens civil society actors vis-à-vis national authorities;
- Avoid duplicating functions, replacing the activities or usurping the legitimate role in society of civil society actors;
- Encourage and support the development of networks and coordination among organizations;
- Be aware of the available human, material and financial resources of the field presence and never make promises that cannot be kept;
- Adopt an inclusive approach to information sharing;
- Establish and maintain two-way communication, including by supporting or attending local initiatives where appropriate;
- Undertake joint initiatives where there are common goals and values;
- Consider contributing to initiatives that civil society actors are already undertaking, as opposed to proposing new activities for which ownership needs to be built;
- Build ownership by actively engaging civil society in determining priorities, implementing the process and monitoring results. Ownership begins at the conception stage and continues through all the phases of programme implementation;
- Broaden the pool of potential civil society partners (e.g., not only human rights organizations, but also minority and indigenous peoples' organizations, trade unions, community-based organizations, social movements);
- Use clear and transparent processes when selecting civil society actors to participate in activities of the field presence or when accepting to participate in their events;
- Use participatory processes that open informal channels of communication.
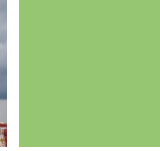
When *assessing individual civil society organizations for potential partnership*, HROs can ask the following questions:

- Are the goals and activities of the organization compatible with the goals of the field presence?
- Does the organization accept universal human rights values?
- Will partnering with the organization affect the impartiality and independence of the field presence?

2 Civil society actors as partners in monitoring

When appropriate, HROs can establish partnerships with civil society actors in monitoring activities. They can be involved in several stages of the monitoring cycle:

- **Analysis of the local context:** civil society actors often have a good understanding and knowledge of the diverse political and social dynamics, history, institutions and overall context of the area where they are based (locally, regionally or nationally). Such wealth of knowledge is extremely useful for HROs to more quickly understand and be able to analyse the human rights situation. When engaging with civil society at this stage, HROs should ensure that they interact with a wide variety of contacts so as to gather broad information. For example, HROs may be unable to gather

gender-specific information only from mainstream NGOs, particularly if women's rights are not considered a priority for them (see chapters on *Gathering contextual information* and on *Integrating gender into human rights monitoring* 📖).

■ **Strategic planning:** HROs should involve civil society in the development of the field presence's strategic planning. This includes taking into account the views of civil society actors when identifying the main human rights problems of a region or country, as well as which human rights priorities should be pursued. Such consultation would ensure that the priorities are more relevant to the context and to the actors, and would encourage participation, ownership and alliance-building with civil society (see chapters on *Basic principles of human rights monitoring* (the principle of participation) and on *Strategic planning for human rights impact* 📖).

Occupied Palestinian Territory

In human rights monitoring, the OHCHR field presence engages with civil society at three levels:

1. At the level of the Protection Cluster, where the main human rights NGOs are present together with United Nations entities. The Protection Cluster is an important mechanism for coordinating action with civil society and other partners. NGOs share information on the cases they monitor. Decisions on case referrals are taken within the Protection Cluster. It is also a forum to discuss and identify trends and patterns in the cases that are monitored.

2. At the level of the Protection Cluster's subgroups, on settlers' violence, displacement and others. The types of activities and discussions are similar to those taking place within the Protection Cluster but the focus is more specific.

3. Bilateral engagement with civil society. This can be about information sharing on cases as well as referrals. The field presence often intervenes to ensure NGOs gain access to Palestinian places of detention, from which they are normally barred. Occasionally, it undertakes joint monitoring missions with NGOs.

In addition, it strengthens the capacity of civil society in human rights monitoring by providing advice and sharing tools (e.g., interview forms) as well as by delivering training.

Democratic Republic of the Congo

The human rights component of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and local civil society actors regularly conduct joint visits to detention centres, because on their own civil society actors would be denied access. This joint action ensures that local civil society actors are in regular communication with the national authorities, and prevents the latter from interacting only with the international community.
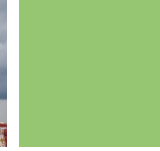
- **Gathering information:** civil society actors usually have a much greater outreach capacity than the field presence, particularly in remote locations or where the field presence does not have an office. When monitoring human rights violations, HROs may rely on civil society partners' outreach capacity, extended networks and direct access to right holders to gather information about relevant developments in the human rights situation or the occurrence of any human rights incidents (see chapter on *Gathering and verifying information* 📖).

- **Interviewing:** civil society actors can play a key role in facilitating access to victims and witnesses of human rights violations. Moreover, if HROs are introduced through a reliable partner, it is more likely that the victims and witnesses will trust them and provide information on what happened to them. For example, in countries where it may be difficult to speak to women owing to tradition and customs, women human rights defenders can be a bridge in reaching out to women who are victims or witnesses of violations in their community (see chapter on *Interviewing* 📖). With survivors of trauma, the mediation of an organization trusted by them is even more necessary. This is the case, for instance, with children who have survived trafficking or escaped sexual exploitation. HROs should meet them only if necessary and through the mediation of organizations providing assistance and shelter (see chapter on *Trauma and self-care* 📖).

- **Engaging with relevant actors:** likewise, civil society actors can be **intermediaries** between HROs and other actors with whom the field presence wishes to engage. For example, in addressing human rights concerns in an area under the control of an armed non-State actor, it may be easier for local civil society partners than for HROs to engage in a dialogue with that non-State actor, because the field presence may be perceived as being too close to the Government or because of security considerations (see chapters on *Advocacy and intervention with the national authorities* and on *Interactions with non-State actors* 📖). Conversely, field presences can be a bridge between less accessible national authorities and civil society.

- **Verification of information:** civil society actors, particularly human rights defenders, or NGOs conducting human rights monitoring may be a relevant source of information. They can be a primary source of information if they were victims or witnesses themselves or, as secondary sources, can provide important information to help assess the credibility of primary sources and hence the reliability of their information.

- **Protection of victims and witnesses:** civil society actors can support HROs in addressing situations where victims, witnesses or other sources who have worked with the field presence face threats or are subject to reprisals. Civil society actors may have developed protection networks in their communities (e.g., safe house), be able to facilitate the temporary relocation of a person or be in a position to intervene with the source of the threat (see chapter on *Protection of victims, witnesses and other cooperating persons* 📖).

- **Intervention and advocacy:** when conducting advocacy for corrective action, partnerships with civil society may add value to the human rights intervention. Civil society actors can gain in legitimacy and credibility by conducting advocacy with field presences. The active role of civil society in taking forward the results of monitoring through advocacy will also ensure sustainable follow-up.

- **Reporting:** the field presence and human rights NGOs may establish a partnership to draft a public report on a particular human rights event, which would increase the validity of the report and strengthen the credibility of the civil society partner (see chapter on *Human rights reporting* 📖).

Guinea

In 2007, OHCHR conducted two missions to Guinea to assist the national coalition of NGOs established to investigate the events around the strikes of early 2007 and to encourage the national authorities to accelerate the functioning of the national human rights commission. OHCHR organized two training courses on investigation techniques for 60 NGO members and worked with them to establish an operational investigative plan as well as the teams which would cover the country's seven provinces. Once the coalition conducted its investigations, OHCHR provided assistance to compile the information gathered, to establish a database to register all cases, and to analyse and prepare a draft report with recommendations agreed with all coalition members. The coalition of NGOs then finalized the report and helped an important number of victims bring their cases to court. On 10 December 2007, the final report was officially presented to the Guinean authorities and its conclusions made public.

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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HUMAN RIGHTS
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