

# COMPROMISED SPACE:

## BULLYING AND BLOCKING AT THE UN HUMAN RIGHTS MECHANISMS

A REPORT ON THE CHALLENGES FACED BY UNREPRESENTED NATIONS  
AND PEOPLES WHEN ENGAGING THE UN HUMAN RIGHTS MECHANISMS

JULY 2019

### UNREPRESENTED DIPLOMATS PROJECT



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<http://unrepresenteddiplomats.org/>

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# 1. EXECUTIVE SUMMARY & RECOMMENDATIONS

Human rights defenders experience significant challenges when engaging United Nations (UN) mechanisms. Challenges range from blocking tactics employed by states, including deferring ECOSOC status decisions, and intervening in plenary statements, to more overt instances of harassment, intimidation and outright violence, which constitute state reprisals. These challenges, already great, are compounded for human rights defenders who are from minority, indigenous or otherwise politically marginalised backgrounds, as they frequently have fewer financial and human resources, and are often in antagonistic relationships with one or more state governments. This report details the experiences of such human rights defenders belonging to nations and peoples that are unrepresented at the UN – we call them unrepresented diplomats. The report emerges from the ‘Unrepresented Diplomats Project’ (2015 – 2017) that worked with 77 people from unrepresented nations through three skills sharing workshops on UN advocacy.<sup>1</sup> The report is based on 63 survey responses<sup>2</sup> and 23 in-depth interviews,<sup>3</sup> covering 55 different communities. It therefore provides a snapshot of the wider issue, but does so with the aim of complementing the research of others on the topic, and contributing to the push for positive change at the UN.

This report arrives in the context of a UN that is increasingly aware of the difficulties many human rights defenders face in interacting with human rights mechanisms. Since 2010, the UN Secretary General has produced an annual report on intimidation, harassment, and reprisals.<sup>4</sup> Meanwhile the OHCHR encourages the reporting of incidents that happen in connection with the UN treaty bodies, Special Procedures and the Human Rights Council to their respective secretariats and hosts a webpage of these contacts.<sup>5</sup> However, at the same time, there is also a trend of increasing challenges from some member states levelled against the UN, which question the role of the UN human rights mechanisms, the access of human rights defenders to these, and some of which have manifested in attempts at encroaching on NGO space at the UN.

## RESEARCH FINDINGS I: BULLYING AND BLOCKING TACTICS FROM UN MEMBER STATES

The research documented in this report demonstrates that a number of UN member states employ a wide range of tactics in an attempt to prevent or silence human rights defenders who might otherwise expose their human rights violations to UN mechanisms. A key challenge faced by human rights defenders at the UN is the practice of keeping large numbers of NGOs that engage the UN within the grey area of being officially unregistered. Although reasons are always given for the ‘delays’ associated with this tactic, there is enough of a pattern to be able to call it a practice. This politicised blocking of ECOSOC registration ensures increased vulnerability and reduced effectiveness of organisations, which must seek the patronage of registered organisations, and are usually therefore unable to fully participate in the workings of the UN mechanisms. A particularly insidious tactic used by some member states has been to establish and/or support government-affiliated NGOs (GONGOs). Once registered with ECOSOC, these GONGOs can operate within

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1 The project was run by Tibet Justice Center, Unrepresented Nations and Peoples Organization (UNPO), and Dr. Fiona McConnell at the University of Oxford. Funding was provided by the UK’s Economic and Social Research Council through the University of Oxford’s ‘Impact Acceleration Account’. For further information on the project see: <http://unrepresenteddiplomats.org/>

2 We focus on a subset of 38 of the 63 respondents from the survey who have engaged the UN actively.

3 Twenty of these interviews were conducted with members of unrepresented nations and peoples, with three further interviews conducted with INGO workers.

4 OHCHR, ‘Reporting mandate of the Secretary-General on intimidation and reprisals for cooperation with the UN in the field of human rights’, <http://www.ohchr.org/EN/Issues/Reprisals/Pages/Reporting.aspx>

5 OHCHR, ‘How to share information about cases of intimidation and reprisals’, <http://www.ohchr.org/EN/Issues/Reprisals/Pages/HowToShareInformationAboutCases.aspx>

UN NGO forums and spaces, and counter human rights narratives with government narratives, all while in the guise of being genuine, independent bodies.

Beyond using bureaucratic means and political influence at the UN, some states prevent human rights defenders from even leaving their country by variously not issuing travel documents, confiscating passports, or even detaining individuals.<sup>6</sup> Discrediting human rights defenders who engage UN mechanisms and missions in Geneva is another notable tactic. Some states brand defenders from unrepresented nations or peoples as ‘separatists’, while other defenders face being falsely labeled as ‘terrorists’. Direct intervention in side events or speeches to the Human Rights Council are regular occurrences, where states try to discredit defenders, assert their own counter-narrative, or even challenge the right of NGOs to speak. Some respondents spoke of less public tactics, where they or their family members received phone calls with direct threats, or orders not to carry out various advocacy activities at the UN. More serious yet, some spoke of violent reprisals that happened to them after their UN advocacy when they had returned to their home country.

## RESEARCH FINDINGS II: LACK OF SUPPORT

The research clearly shows that there are still significant gaps between the support and protection being made available for human rights defenders engaging the UN, and the increasingly hostile environment being created in UN spaces by certain member states. Our findings show that, while partly in place, the support structure for human rights defenders needs to be much better publicised. These human rights defenders are simply not hearing about the different reporting and support mechanisms that have been set up for them to use in the event of an incident. Crucially, more work also needs to be done to improve the support structures themselves. Regular monitoring and reporting is important, but cannot be the only response. Protection of human rights defenders must be incorporated as a core concern into the workings of the UN’s human rights mechanisms. Responses to particular incidents need to be streamlined, and UN staff need to be trained on how to be proactive in terms of providing support to vulnerable groups and individuals.

The workings of the UN’s human rights mechanisms rely on the information and testimony brought to them by defenders at the frontline of violent, oppressive, and discriminatory situations around the world, where peoples’ human rights are being violated by state governments. These witnesses must be encouraged and protected as far as is possible, lest the UN human rights system fall to the will and whim of those very same oppressive states.

## RECOMMENDATIONS <sup>7</sup>

- The processes of deciding ECOSOC status should be reformed and there should be clear guidance that NGO applications are to be assessed objectively on the criteria set out in ECOSOC resolution 1996/31.
- NGOs found to be closely related to state governments should be given a warning and then have their ECOSOC status investigated and, if necessary, revoked.

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6 For example, Cao Shunli was arrested by Chinese state authorities at Beijing airport when she was on her way to Geneva to take part in China’s 2013 Universal Periodic Review, and she later died in custody from lack of access to medicine: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14394>

7 Despite being separate research, our findings and resultant recommendations are very similar to the research findings and recommendations put forward by both (1) International Service for Human Rights in their submissions of information to the UN Secretary General (e.g: <https://www.ishr.ch/submission-sg-reprisals-report-2018-ishr>), and (2) Human Rights Watch in their report ‘The Costs of International Advocacy: China’s Interference in United Nations Human Rights Mechanisms’ (<https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights>). We are in agreement with all of the further recommendations listed in both of these reports.

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- Individuals acting in a harassing or intimidating manner while representing NGOs, press, or other entities should be investigated by security and, if necessary, barred from the UN.
- OHCHR should work with UN mechanisms to create safe spaces for defenders to give testimony during treaty body reviews and the Universal Periodic Review, which are free from government-affiliated organisations posing as NGOs and other possible state agents.
- Protocols should be devised by UN human rights mechanisms as to the actions that will be taken against states or other actors that carry out threats, harassment and intimidation before, during or after the process of the mechanism.
- If reprisals occur, the UN human rights mechanisms concerned should publicly denounce the incident and take appropriate action, based on the devised protocol.
- UN human rights mechanisms should publicise the measures they will take against state or other actors found to be intimidating or harassing human rights defenders before, during or after the proceedings of the mechanisms, by way of deterrent.
- OHCHR should more widely publicise the support and reporting mechanisms established for incidents and reprisals to NGOs, e.g. including posters within the Palais des Nations building, and/or an email sent out as part of the accreditation and registration procedure.
- OHCHR should train staff on how to respond to reports of incidents and reprisals, as per the devised protocol, and follow up with defenders who have reported such incidents. OHCHR staff should maintain contact with defenders once they return to their home country and follow up in case of reprisals.
- Incidents that occur should be centrally recorded by OHCHR so that patterns, trends and potential vulnerabilities can be identified and acted upon.

## 2. INTRODUCTION

This report is centred on the challenges faced by unrepresented nations and peoples<sup>8</sup> who engage in human rights advocacy at the United Nations' (UN) various human rights and participatory mechanisms. We use the term 'unrepresented diplomats' within the report to describe individuals who represent these communities at the UN in order to acknowledge their advocacy role on behalf of their people in a nation-state system that does not acknowledge them as an equal political entity.

What unrepresented diplomats have as a common defining characteristic is the fact that they are not politically represented by the government in the state in which their community or group is based; indeed, their community may be seriously oppressed by the majority group and/or government of the state in which they reside. As with all other human rights defenders, the UN human rights mechanisms offer unrepresented diplomats some hope and recourse for holding state-sanctioned human rights violators to account, and in doing so, possibly provoking change.

There are a huge variety of people engaging the UN human rights mechanisms who can be termed unrepresented diplomats. Some still live in the nation-states that are restricting their and their peoples' rights, and so take great risks to come to the UN. Others have already been forced to flee, and now live life as refugees or exiles in safer states, using these vantage points to bear witness to what is happening back in their homeland. Others are the second or third generation of such exiles, who continue to speak out for change in their original homeland. All are doing this work to defend the human rights of their communities, be they civil, political, economic, social or cultural rights, including their people's right to self-determination. Unlike the majority of other human rights defenders engaging the UN, theirs is often also a fight for recognition as a people, for land, and ultimately for identity.

The stakes are often higher for unrepresented diplomats than other human rights defenders, as are the challenges they face in achieving their aims through being heard in an international system of nation-states that does not recognise them. Unrepresented diplomats are often from marginalised backgrounds, born without wealth or influence – whether as minority groups, occupied nations, or exiles. The overwhelming majority of our respondents talked of struggling to even find the financial resources required to physically attend UN meetings. Of most concern to this report is the fact that the often marginalised position of unrepresented diplomats means that they can be very vulnerable to attempts made by governments to prevent their advocacy, through blocking and bullying tactics. These particular dynamics are important to have in mind when seeking solutions.

### A. UNITED NATIONS SPACES FREQUENTED BY UNREPRESENTED DIPLOMATS

Unrepresented diplomats engage human rights mechanisms including UN Human Rights Treaty Bodies; UN Special Procedures (in particular, UN Special Rapporteur on minority issues; UN Special Rapporteur on the rights of indigenous peoples); the UN Human Rights Council and its Universal Periodic Review; the UN High Commissioner on Human Rights, and the Office of the High Commissioner on Human Rights (OHCHR); and the UN Secretary General. In addition they are also likely to engage the following more specific mechanisms:

- UN Forum on Minority Issues
- UN Permanent Forum on Indigenous Issues (UNPFII)
- Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

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<sup>8</sup> As per the UNPO's definition this includes indigenous peoples, minorities, unrecognised states and occupied territories: <http://unpo.org/section/2>

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When engaging these mechanisms, unrepresented diplomats carry out a number of activities, including: making oral interventions on human rights issues at the Human Rights Council, UNPFII, and the Forum on Minority Issues; giving written submissions and oral briefings to human rights treaty bodies and Special Procedures; and speaking on side-event panels at Human Rights Council sessions.

As discussed later in this report, despite there being mechanisms created specifically for unrepresented groups, and despite the importance given to their input by some UN entities, most unrepresented diplomats have been unable to gain official NGO registration with the UN, and face challenges with simply gaining access to these spaces.

## B. METHODOLOGY AND DATA

This report is the result of the 18-month long ‘Unrepresented Diplomats Project’, run between 2015 – 2017 by Tibet Justice Center (TJC), Unrepresented Nations and Peoples Organization (UNPO), and Dr Fiona McConnell at the University of Oxford, which focused on increasing the efficacy of unrepresented diplomats’ UN advocacy. In the early stages of the project, an online survey of 63 respondents was conducted, which sought to determine the varied challenges that representatives from unrepresented nations and peoples face at the UN. Responses to the survey helped tailor three UN advocacy skills-sharing workshops, and a ‘Train the Trainers’ session. In total 77 unrepresented diplomats attended these workshops. Further discussions were facilitated during the workshops, where many anecdotal accounts were given of issues and challenges that individuals had faced when attempting to conduct successful advocacy at the UN human rights mechanisms. These workshop discussions and the survey were followed up with 20 in-depth structured interviews<sup>9</sup> (between 0.5-1.5 hours) conducted by the report’s lead author Iona Liddell with individuals who had been survey respondents, or who had been involved in the workshops, or who had been recommended by other interviewees.

Other significant research on the issues faced by human rights defenders engaging the UN human rights mechanisms includes: International Service for Human Rights’ reports on reprisals,<sup>10</sup> including their 2018 submission to the Secretary General;<sup>11</sup> Human Rights Watch’s 2017 report on China’s behaviour at the UN Human Rights Mechanisms;<sup>12</sup> the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association’s 2014 report on NGO access to UN and reprisals;<sup>13</sup> and, since 2010, the UN Secretary General’s annual report on reprisals.<sup>14</sup>

This report aims to complement this body of research by situating the experiences of unrepresented diplomats within the conversation. In doing so we aim to contribute to the push for increased support and space for human rights defenders, including unrepresented diplomats, at the UN human rights mechanisms.

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<sup>9</sup> Three further interviews were conducted with INGO workers.

<sup>10</sup> ISHR Annual Report 2015, ‘Ending reprisals against Human Rights Defenders,’ 2015: <https://www.ishr.ch/news/protecting-human-rights-defenders-reprisals>

<sup>11</sup> ISHR, ‘Ending reprisals against those who cooperate with the UN in the field of human rights: Submission to the UN Secretary-General on recent developments, cases and recommendations’, May 2018: <https://www.ishr.ch/submission-sg-reprisals-report-2018-ishr>

<sup>12</sup> Human Rights Watch, ‘The costs of International Advocacy: China’s interference in United Nations Human Rights Mechanisms,’ September 2017: <https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights>

<sup>13</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/26/29, UN Human Rights Council 23<sup>rd</sup> session: [https://www.ohchr.org/Documents/Issues/FAssociation/A-HRC-26-29\\_en.pdf](https://www.ohchr.org/Documents/Issues/FAssociation/A-HRC-26-29_en.pdf)

<sup>14</sup> The UN Secretary General’s annual reports on reprisals from 2010 are accessible here: <https://www.ohchr.org/EN/Issues/Reprisals/Pages/Reporting.aspx>

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## 3. STATE-LED CHALLENGES TO UNREPRESENTED DIPLOMATS

### A. BUREAUCRATIC BLOCKING: ACCESS AND OPERATIONAL SPACE

The engagement of civil society with the various UN human rights mechanisms is a central part of the functioning of such mechanisms. With regards to the human rights treaty bodies, when they are due to review a specific state, NGOs can submit detailed information to them online, and then present evidence to them face-to-face in the week of the review. With Special Procedures, NGOs can submit information on specific human rights violations relevant to their mandates remotely, and meet their team in person. With regards to the Human Rights Council, ECOSOC-accredited NGOs can gain access to the plenary session, meet with UN member state diplomats, and submit information to the Universal Periodic Review mechanism. These NGOs are also able to amplify their advocacy at the Council by registering for speaking slots during the Human Rights Council sessions, and participate in or organise panel discussions (known as ‘side events’) running concurrent to the Council’s plenary discussions. UN experts and diplomats frequently draw on information provided by civil society sources, using it in their interactions with states under review. Yet, despite the fact that civil society is so important to the proceedings – and perhaps because of it – 40% of the unrepresented diplomats we spoke to who are active at the UN reported facing difficult behaviour from a UN member state which tried to block their voice at the UN.

#### i. Gaining ECOSOC status

That UN human rights mechanisms need information from civil society in order to function effectively is at odds with the fact that every respondent we spoke to highlighted significant challenges – in the past or currently – with gaining access to UN spaces in order to provide such information.

NGOs engaging the UN are required to have consultative status with the Economic and Social Council, often abbreviated to ‘consultative status’ or ‘ECOSOC status’. This status allows NGOs to gain access to the various human rights mechanisms of the UN, ad-hoc processes on small arms, and special events organised by the President of the General Assembly.<sup>15</sup> Having ECOSOC status allows NGOs to participate in many UN meetings, observe the plenary sessions, and make statements to the Human Rights Council.<sup>16</sup>

ECOSOC status is granted by the UN’s Economic and Social Council (ECOSOC), on the basis of recommendations from the Committee on Non-Governmental Organisations<sup>17</sup> (often referred to as ‘the NGO Committee’), which is based in New York. NGOs can apply for consultative status by registering online. However, despite appearances, this process is far from straightforward. In his thematic report on NGO engagement with the UN human rights mechanisms released in September 2014, the then UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Maina Kiai, noted that he had received numerous complaints from NGOs that the process of obtaining Council status is “long, complex, costly, beyond the capability of many small civil society organizations and impossible to obtain for informal organizations and grass-roots networks”.<sup>18</sup> This finding is backed up by this research, with only 1 of 20 interviewees, and only 5 of

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15 UN and Non-Governmental Organizations (NGOs): A Quick Guide: <http://research.un.org/en/ngo>

16 Rights to freedom of Peaceful Assembly and of Association: Note by the Secretary General. UN General Assembly, 69<sup>th</sup> Session, New York, September 1, 2014, UN doc A/69/365 Para. 24: <https://daccess-ods.un.org/TMP/6265202.76069641.html>

17 The Committee on Non-Governmental Organizations is a standing committee of the Economic and Social Council (ECOSOC), hence the phrase “ECOSOC status”.

18 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/26/29, UN Human Rights Council 23rd session, accessed at [https://www.ohchr.org/Documents/Issues/FAssociation/A-HRC-26-29\\_en.pdf](https://www.ohchr.org/Documents/Issues/FAssociation/A-HRC-26-29_en.pdf)

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the 63 survey respondents representing organisations that had acquired ECOSOC status. 8 of the 20 interviewees described how their organisation had attempted to obtain ECOSOC status, but only one had been successful. Other respondents reported having been dissuaded from trying to obtain the status by hearing the stories of others' failed attempts.

On the basis of these responses, it is clear that there are problems with the ECOSOC status system. The NGO Committee is made up of 19 member states that each serve a 4-year term. These 19 states consider NGO applications for UN consultative status and choose applications to recommend to the Economic and Social Council. This puts those states in a powerful position, and so it is perhaps no surprise that, as a senior official in an INGO with long experience of UN advocacy on minority rights explained, "a lot of 'difficult' states are members of the NGO committee...because then they can function as gatekeepers"<sup>19</sup> – essentially deciding which NGOs get official access to the UN, and which do not.

For the many NGOs who have been unable to acquire ECOSOC status, the only way to engage at the UN is to gain the trust of an ECOSOC-registered NGO which agrees to provide accreditation under their name. This often entails restrictions being placed on what unregistered NGOs can then do, such as not addressing the Human Rights Council in their own name. While in practice NGOs can be open about their name and goals as being separate from those of the organisation providing them accreditation, this situation forces NGOs into a grey area where they cannot officially operate as their own organisation. This grey area has enabled some states to bring further pressure on such unregistered NGOs, by challenging their right to use another NGOs' status.

Amongst those NGOs that are able to gain accreditation through an ECOSOC-recognised organisation, some find it difficult to access the UN if they use unrecognised identity documents. Taiwanese activists are a case in point. Taiwan was "forced to give up its seat at the UN to Mao Zedong's People's Republic of China"<sup>20</sup> in 1971. Since then, Taiwan has been barred from the UN and affiliated bodies like the World Health Organization.<sup>21</sup> Taiwanese human rights defenders report having been denied access to the UN buildings when they showed a Taiwanese passport as proof of identity. In June 2017, Professor Liu Huang Lichuan from National Chung Cheng University and three of her students, who had all registered online and had their registration accepted, were denied entrance to the UN in Geneva when they showed their Taiwanese passports and student cards.<sup>22</sup>

International Service for Human Rights (ISHR) devotes some of its resources to tackling the issue of the NGO Committee's blocking of NGOs applications. In a report from the March 2017 session of the Committee, where 524 applications for consultative status were being considered, ISHR observed "[Committee] members withdrawing accreditation to a number of Turkish NGOs on improper grounds, voting against consultative status for an organisation working on religious freedom, and denying a Brazilian organisation the right to speak...[and] as is common when facing the Committee, human rights organisations faced far greater obstacles to being granted accreditation than other kinds of NGOs."<sup>23</sup> ISHR's New York office Director and Head of Regional Advocacy, Eleanor Openshaw, summed up that "while a small handful of Committee members spoke up for civil

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19 Interviewed by Iona Liddell, 3 August 2017.

20 Jacobs, Andrew 'Sidelined at the U.N., a Frustrated Taiwan Presses On', *New York Times*, 22 September, 2016: <https://cn.nytimes.com/china/20160923/taiwan-china-united-nations-un/en-us/>

21 *ibid*

22 Tong, Elson. 'Not just officials: Taiwan students blocked from visiting UN public gallery in Geneva', *Hong Kong Free Press*, 15 June, 2017 <https://www.hongkongfp.com/2017/06/15/not-just-officials-taiwan-students-blocked-visiting-un-public-gallery-geneva/>

23 ISHR, 'The NGO Committee: The ECOSOC body that shames the UN', 1 March 2017: <https://www.ishr.ch/news/ngo-committee-ecosoc-body-shames-un>

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society participation during the session, too many used their membership of the Committee to block and bluster.”<sup>24</sup>

Repetitive questioning of NGO applicants was widespread at the 2017 session of the Committee, with the UK delegation noting that some of the questions posed to applicants “quite frankly seem spurious.”<sup>25</sup> According to the findings presented here, this tactic of Committee member states delaying decisions on applications by posing questions in order to push the decision to the next session appears to be a common blocking strategy. A senior official from an experienced INGO explained “the process is not to...refuse ECOSOC status, but to ask further questions and to delay the adoption and granting of ECOSOC status.” In such a way, a state can cause indefinite delays to organisations which might otherwise have proven to be “thorns in their side.”<sup>26</sup> According to research carried out by ISHR, the most likely organisations to be deferred are those that work on human rights, with only 7% of deferred applications from human rights organisations recommended for accreditation, compared to 23% of deferred applications from other kinds of NGOs.<sup>27</sup> Within that bracket, organisations working on ‘minority rights’ are particularly affected, as well as organisations focusing on the rights of LGBTI people, women’s rights, sexual and reproductive rights, freedom of expression and association, and caste-based discrimination.

In his 2018 report on reprisals to the UN General Assembly, the Assistant Secretary-General noted that “at its resumed session in May 2018, the [NGO] Committee had before it 472 applications, of which 244 were deferred from previous sessions. They recommended 209 for consultative status and deferred 233.”<sup>28</sup>

One of our interviewees, Tatyana Chubrikova from the NGO Federal Lezghin National and Cultural Autonomy (FNLCA), described how they had been trying for three years to get consultative status, during which they travelled to New York several times to speak at the NGO Committee sessions. However each time, “[the state of] Azerbaijan put questions concerning anything, just like that! Just to delay the accepting of our organisation to ECOSOC, because of course Azerbaijan is against us, because they violate human rights of the minorities there.”<sup>29</sup>

Delaying tactics were also reported by unrepresented diplomats from democratic countries. For example, the Acting Director of the International Dalit Solidarity Network (IDSN), Meena Varma, highlighted that IDSN had “been waiting 9 to 10 years for ECOSOC status” and had “received a record number – 82 or 83 – questions” from India, a member of the NGO Committee<sup>30</sup>. Ms. Varma noted that “[t]he questions are repetitive, and many of them have been answered in the past.”<sup>31</sup>

There have also been moves from some Committee member states to prevent NGOs speaking at all during the Committee sessions, with China stating in January 2017 “the NGO Committee didn’t have time to listen to statements from NGOs.”<sup>32</sup>

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24 *ibid*

25 *ibid*

26 Interviewed by Iona Liddell, 3 August 2017.

27 ISHR, ‘Ending reprisals against those who cooperate with the UN in the field of human rights: Submission to the UN Secretary-General on recent developments, cases and recommendations’, May 2018: <https://www.ishr.ch/submission-sg-reprisals-report-2018-ishr> pg. 8.

28 OHCHR. ‘Reporting mandate of the Secretary-General on intimidation and reprisals for cooperation with the UN in the field of human rights’: <https://www.ohchr.org/EN/Issues/Reprisals/Pages/Reporting.aspx>

29 Interviewed by Iona Liddell, 9 January 2017.

30 Interviewed by Iona Liddell, 3 August 2017.

31 *Ibid*

32 ISHR, ‘Ignoring precedent the NGO Committee denies NGO right to speak’, 31 January 2017: <https://www.ishr.ch/news/ignoring-precedent-ngo-committee-denies-ngo-right-speak>

With ECOSOC status being the only way to officially gain access to many UN buildings and meetings, Mona Silavi from Ahwaz Human Rights Organisation summed up the challenges faced by unrepresented diplomats when she spoke of the UN having a “really tiny door.”<sup>33</sup> She, like others interviewed, made the case for it being “really important to make it easier for NGOs to access the UN,”<sup>34</sup> while Tatyana Chubikova from FNLCA noted that she cannot understand “how...all the miserable organisations that are persecuted by government[s] cannot get [ECOSOC status]...and all those organisations who are supported by governments can freely function and become ECOSOC members”. This observation points towards another challenging trend for unrepresented diplomats: the existence of GONGOs.

## ii. GONGOs

GONGOs are government-sponsored organisations posing as non-governmental organisations. As a *Foreign Policy* article from October 2009 notes, GONGOs are created by “governments funding and controlling nongovernmental organizations (NGOs), often stealthily. Some GONGOs are benign, others irrelevant. But many...are dangerous.”<sup>35</sup> Acknowledging that some democratic countries also have GONGOs, the author notes that “The world needs an NGO rating system that does for global civil society what independent credit rating agencies do for the global financial system.”<sup>36</sup>

GONGOs at the UN are problematic because they exist to uphold the interests of the state that created them, while in the guise of being independent organisations, and in doing so encroach on the operating space, air-time, and even safety, of representatives from genuine *non*-governmental organisations. To have a sense of the scale of the issue, in the case of China, Reuters reported in 2015 that “according to a UN database, [China] has 47 NGOs from the mainland, Hong Kong and Macau that are allowed to participate in meetings at the Human Rights Council. At least 34 of these are GONGOs.”<sup>37</sup> This issue is rife across states and human rights entities at the UN. Indeed, 20% of our in-depth respondents reported having faced issues with GONGOs.

Abidine Merzough from the NGO IRA-Mauritania that works on the rights of the Haratin people in Mauritania, has had to deal with GONGOs as a challenge to his own UN advocacy work for years. He spoke of how “the [Mauritanian] regime paid some people, some NGOs, from civil society...and they let them go outside Mauritania, attending meetings, attending human rights events and taking [the] floor and telling stories...with some wrong information...everything against us, [saying] we are violent.”<sup>38</sup>

According to Merzough, during Mauritania’s Universal Periodic Review by the Human Rights Council in 2015, the state brought several NGOs to the UN in Geneva to speak in its favour, making statements that directly contradicted what IRA-Mauritania was asserting. When word reached Merzough that such GONGOs were again planning to come to Geneva and London for an advocacy tour, he raised his concern with contacts in London, including Anti-Slavery International, and eventually the GONGOs representatives’ UK visas were denied. Although this was a win in many ways, Merzough is still living with the consequences: “That guy who was going to be sent [on] that

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33 Interviewed by Iona Liddell. 5 October 2016.

34 *ibid.*

35 Naim, Moises, ‘What Is a GONGO? How government-sponsored groups masquerade as civil society’. *ForeignPolicy.com*, 13 October 2009: <http://foreignpolicy.com/2009/10/13/what-is-a-gongo/>

36 *ibid.*

37 Wee, Sui-Lee, and Nebehay, Stephanie, ‘At U.N., China uses intimidation tactics to silence its critics,’ *Reuters*, 6 October 2015: <https://www.reuters.com/investigates/special-report/china-softpower-rights/> The number is very likely to be higher, given that none of the China-focused organisations interviewed for this research had managed to obtain ECOSOC status, the analysis being that they had their applications blocked by the Chinese Government.

38 Interviewed by Iona Liddell, 13 August 2016

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mission, he's today making...a big campaign against me. He's telling me I'm a terrorist, I'm thief. In Facebook he's writing every day something against [me]."<sup>39</sup>

GONGOs also use the strength of their position as *prima facie* NGOs to directly intimidate genuine human rights defenders engaging the UN. Groups facing China spoke of having their photographs taken by people working for Chinese GONGOs, as an intimidation technique. As Enghebatu Togocho from the Southern Mongolian Human Rights Information Center noted, at a couple of meetings in Geneva "the GONGO members, the fake NGOs, they came to us and they said...what you are doing is useless...they approached us and then [were] taking pictures."<sup>40</sup>

In its latest report, Human Rights Watch documented multiple cases of such harassment from GONGOs within UN spaces,<sup>41</sup> including that of Chinese human rights defender Ti-Anna Wang, who was photographed by members of a Chinese GONGO who stated they worked on Tibetan human rights. Reuters reported that Ms. Wang, a Canadian citizen, and the 26-year-old daughter of jailed Chinese dissident Wang Bingzhang, "was unnerved in March 2014 when an official from the China Association for Preservation and Development of Tibetan Culture, one of Beijing's GONGOs, photographed her during a meeting of the council."<sup>42</sup>

Wang reported the harassment to UN security, which found photos of the contents of her handbag on the official's phone and ejected him from the session. Not satisfied that this would be a long-term solution, Wang went to the media with her story, which was covered in the New York Times,<sup>43</sup> and pressed the UN further, which led to action being taken. As Reuters reported, "Two letters reviewed by Reuters show that in Ti-Anna Wang's case, the UN council took action. According to a letter dated March 24, 2014, a Chinese delegate of the Tibetan association, Yao Yuan, had his accreditation revoked by the UN for taking the pictures. The lack of a response from China to that letter prompted a second letter two months later, saying that Yao's badge and accreditation would 'remain revoked until further notice.' Wang is not referred to by name in the letters, which were written on official UN stationery."<sup>44</sup>

This is a very rare example of a human rights defender successfully fighting back, and while Wang is not from an unrepresented nation or people, her experience demonstrates that change can happen if such incidents are reported and UN officials then take appropriate action. However, it is of real concern that the same individual, Yao Yuan, was spotted inside the UN premises again some time after this incident, as reported by Human Rights Watch,<sup>45</sup> and calls further into question the UN's handling of the situation for the long-term security of human rights defenders.

The Tibet Advocacy Coalition, of which Tibet Justice Center is a coordinator, has also experienced GONGO harassment on multiple occasions. In the context of China's UPR session in 2013, members of their group meeting with a diplomat within the UN's human rights building in Geneva were filmed

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39 Ibid.

40 Interviewed by Iona Liddell. 20 October 2016

41 Human Rights Watch, 'The costs of International Advocacy: China's interference in United Nations Human Rights Mechanisms,' September 2017: <https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights>

42 Wee, Sui-Lee, and Nebehay, Stephanie, 'At U.N., China uses intimidation tactics to silence its critics,' *Reuters*, 6 October 2015: <https://www.reuters.com/investigates/special-report/china-softpower-rights/>

43 Tatlow, Didi Kirsten, 'U.N. Investigates ,intimidation' of activist at Human Rights Council', *New York Times*, 21 March 2014: <https://sinosphere.blogs.nytimes.com/2014/03/21/u-n-investigates-intimidation-of-activist-at-human-rights-council>

44 Wee, Sui-Lee, and Nebehay, Stephanie, 'At U.N., China uses intimidation tactics to silence its critics,' *Reuters*, 6 October 2015: <https://www.reuters.com/investigates/special-report/china-softpower-rights/>

45 Human Rights Watch, 'The costs of International Advocacy: China's interference in United Nations Human Rights Mechanisms,' September 2017: <https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights>

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by a Chinese individual. When challenged by one of the Coalition team, the person filming quickly left the building.

### iii. Official state influence on UN processes

Some states that do not want to be closely reviewed by the UN's human rights mechanisms have taken to questioning the legitimacy of the presence of NGOs within the UN spaces. A senior official of a long-experienced INGO working on minority rights has noted that at the Council, there have been successful attempts by some states to limit the space of NGOs, going as far as restricting the actual physical space that NGOs can occupy. This leads to a dramatic reduction in terms of number of seats for NGOs.<sup>46</sup>

In recent years, NGOs have also faced significant challenges at the UN Forum on Minority Issues. As a space where civil society representatives hold states accountable to agreed norms related to national, ethnic, religious and linguistic minorities, the Forum on Minority Issues is a unique platform within the UN system where state and non-state stakeholders can not only come together for engagement and dialogue but can do so with unparalleled parity of participation. Within the space of the Forum they have equal speaking time during the moderated debate and there is no hierarchy in the order of interventions, although only member states have the right to respond. In addition, for representatives of minorities, civil society organisations, and NGOs, this is a notably accessible forum within the UN system, as these delegates are not required to have consultative status with the Economic and Social Council in order to attend: pre-registration with the OHCHR Secretariat is all that is required. However, during the 9<sup>th</sup> Session of the Forum in 2016 a number of member states challenged both the content of interventions by civil society representatives and the very right of civil society organisations to be present at this Forum. For example Syria used its intervention to raise an objection to a section in the draft resolution, which said that states are equal to non-state actors in this Forum, and Russia asked for the rules of participation in the Forum to be modified to restrict participation to NGOs with ECOSOC status.<sup>47</sup> At the 10<sup>th</sup> Forum on Minority Issues, in 2017, once again member states abused their right to raise points of order to address substantial issues, or simply to interrupt NGO representatives and attempt to stop them from finishing their speeches. In some cases this led the chairperson to stop the representatives from finishing their speeches. An experienced official from an INGO working on the issues finds this symbolic; "It is a sign of the disrespect for the role of NGOs in the process... obviously all the NGOs will speak, [they] went through the NGO committee and got the ECOSOC status so you can't deny them the right to speak."<sup>48</sup>

More insidious still are the lengths that the Chinese Government, and other so-called 'like-minded' states, are going to in order to undermine the entire UN human rights infrastructure. According to Human Rights Watch, China and other states repeatedly seek "to block or weaken UN resolutions on civil society" and China "has pushed back" against efforts to strengthen key mechanisms that would support and advance human rights at the UN.<sup>49</sup>

China has also proposed several resolutions related to human rights that appear to be an attempt to dilute the meaning of human rights. At the UN Human Rights Council session in June 2017, China successfully proposed a resolution on "The contribution of development to the enjoyment of all

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46 Interviewed by Iona Liddell, 3 August 2017.

47 UN Web TV, 'Protecting minority rights during humanitarian crises,' Ninth session of the Forum on Minority issues, 25 November 2016: <https://www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/Session9.aspx>

48 Interviewed by Iona Liddell, 3 August 2017.

49 Human Rights Watch, 'The costs of International Advocacy: China's interference in United Nations Human Rights Mechanisms,' September 2017: <https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights> pg.2.

human rights,”<sup>50</sup> despite some states opposing the very core of its argument, with the U.S. saying they “reject any suggestion that development goals could permit countries to deviate from their human rights obligations and commitments.”<sup>51</sup> In March 2018, China proposed another resolution, this time on “Promoting the International Human Rights Cause through Win-Win Cooperation”, which focused solely on intergovernmental dialogue and cooperation, rather than human rights violations and government accountability for such.<sup>52</sup> As Miloon Kothari, former UN Special Rapporteur on adequate housing with the UN Human Rights Council, noted, “The ‘cooperation’ that the resolution presents can become an escape route for governments who prefer an absence of scrutiny for their questionable practices, and go to great lengths at home and abroad to avoid it. For civil society and affected populations, however, the move away from scrutiny is a move to entrench impunity for human rights violations.”<sup>53</sup>

#### iv. Unofficial state influence on UN processes

In addition to voicing opposition to NGOs’ participation at the UN through official channels, the research underpinning this report has uncovered many incidents in which UN member states appeared to be having undue influence over the proceedings of various UN mechanisms, to the detriment of unrepresented diplomats’ ability to successfully participate.

For example, Monireh Shirani of the Balochistan People’s Party reported that at the UN Forum on Minority Issues in 2009 she put her name on the speakers list, only for it to be moved repeatedly further down the list by UN staff, such that the two days of the Forum went by without her being allotted a speaking slot. When she complained to a UN staff member about this, they acknowledged that her name had indeed been repeatedly moved, but said they did not know the reason. This left Shirani sceptical of the objectivity of some of the officials working for the Forum, seeing their actions as possible prejudicial blocking on behalf of the Islamic Republic of Iran.<sup>54</sup>

State interference was even clearer in 2008 at the UN Permanent Forum on Indigenous Issues (UNPFII) in New York where an ostensibly independent Iranian woman on the Forum’s board of representatives challenged Shirani directly after her speech, saying that it was “sad” that the Forum is tainted by “terrorist” organisations spreading lies outside Iran, concluding that the presence of such NGOs meant that the Forum was “discredited.”<sup>55</sup>

State interference in UN human rights mechanisms has also included barring particular unrepresented diplomats. In April 2017, security officials ejected Uyghur activist Dolkun Isa, of the World Uyghur Congress (WUC), from the UN headquarters in New York, where he was attending the UN Permanent Forum on Indigenous Issues. Isa had been formally accredited as an NGO participant at the Forum but UN security forced him to leave the UN premises, with no explanation. Two days after the incident, on 28 April, he was denied a badge to be able to re-enter the UN and participate in the Forum. The UN remained silent on the issue, despite calls for clarification from the WUC, the UNPO, Society for Threatened Peoples and Human Rights Watch. UNPO’s General Secretary Marino Busdachin, said “It is very worrying to witness...the domination exercised by states within the UN

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50 Human Rights Council, ‘The contribution of development to the enjoyment of all human rights’, A/HRC/RES/35/21, 22 June 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/184/81/PDF/G1718481.pdf?OpenElement>

51 U.S. Mission to International Organizations in Geneva, ‘Explanation of Position on Resolution on the Contribution of Development to the Enjoyment of all Human Rights’, 22 June 2017, A/HRC/35/L.33, <https://geneva.usmission.gov/2017/06/23/explanation-of-position-on-resolution-on-the-contribution-of-development-to-the-enjoyment-of-all-human-rights-ahrc35l-33/>

52 Fisher, John, ‘China’s ‘Win-win’ Resolution is Anything But’, *Human Rights Watch*, 5 March 2018: <https://www.hrw.org/news/2018/03/05/chinas-win-win-resolution-anything>

53 Kothari, Miloon, ‘China’s Trojan horse Human Rights Revolution’, *The Diplomat*, 22 March 2018: <https://thediplomat.com/2018/03/chinas-trojan-horse-human-rights-resolution/>

54 Interviewed by Iona Liddell, 4 October 2016

55 *ibid.*

system, especially in the framework of the UNPFII, namely a crucial UN forum that gives space to indigenous peoples to voice their concerns and recommendations”.<sup>56</sup>

Despite the concerns raised to the UN in 2017, the following year Isa was again initially prevented from participating in the Forum; being informed just days before the Forum’s start that his accreditation for the event through the Society for Threatened Peoples was suddenly ‘pending approval’ due to ‘security concerns’, despite having been approved some weeks before.<sup>57</sup> The UNPO pointed out that the UN-DESA – the body largely responsible for the organization of the Indigenous Forum – is headed by UN Under-Secretary-General Mr. Liu Zhenmin of China, and characterised Isa’s exclusion as “a gross misuse of power and an insult to the integrity of the Forum and to the UN itself.”<sup>58</sup> Isa said, “This represents a clear signal of the success of China’s attempts to manipulate the UN system. I am incredibly disappointed”.<sup>59</sup> It was only with the intervention of Human Rights Watch, the UN Assistant Secretary-General, and both the US and German missions to the UN that Dolkun was finally granted accreditation for the final day of the two-week Forum.<sup>60</sup> However, at the end of the Forum, the ECOSOC status of the Society for Threatened Peoples, whom had given Isa accreditation in their name, was put under review upon China’s request. Following a submission by the NGO clarifying its position and its aims, China withdrew its request to suspend their status, but added that it would keep the organisation under careful observation.<sup>61</sup>

Human Rights Watch note in their 2017 report “The Costs of International Advocacy”, that China “regularly seeks to restrict the participation of such NGOs by submitting to the UN a list of individuals it portrays as security threats, requesting that the UN inform the Chinese mission in Geneva if any of these individuals are accredited as NGO participants for the upcoming Council session”.<sup>62</sup> The purpose of this appears to be an attempt to have these individual’s credibility undermined, and lead to their being barred from UN spaces. Human Rights Watch reports that behind the scenes, “Chinese diplomats, in violation of UN rules, have contacted UN staff and experts on treaty bodies and special procedures...including behaviour that has at times amounted to harassment and intimidation.”<sup>63</sup>

Perhaps the clearest example yet of undue state influence on the UN human rights mechanisms was in January 2017, when Chinese President Xi Jinping gave a keynote speech at the UN’s Palais des Nations in Geneva. The UN barred NGOs from attending the speech, closed parking lots and meeting rooms, and sent home early many of the office’s approximately 3,000 staff.<sup>64</sup>

In this first section, we have documented the ways in which some states have tried to use their positions at the UN to block the access and participation of unrepresented diplomats in UN human rights mechanisms, including indigenous and minority rights forums, through bureaucratic means, official and otherwise. The next section covers silencing tactics that some states deploy directly towards human rights defenders, including unrepresented diplomats, before, during and after UN advocacy trips.

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56 UNPO, ‘PRESS RELEASE: UNPO Vice President Prevented for Second Year in a Row from Participating in UN Indigenous Forum’, 17 April 2018: <http://unpo.org/article/20750>

57 Ibid.

58 Ibid.

59 Interviewed by Iona Liddell, 25 October 2018

60 Ibid.

61 Wordon, A. ‘China Fails in its Gambit to Use the UN NGO Committee to Silence the Society for Threatened Peoples and Uyghur Activist Dolkun Isa’ *China Change*, 10 July 2018 <https://chinachange.org/2018/07/10/china-fails-in-its-gambit-to-use-the-un-ngo-committee-to-silence-the-society-for-threatened-peoples-and-uyghur-activist-dolkun-isa/>

62 Human Rights Watch, ‘The costs of International Advocacy: China’s interference in United Nations Human Rights Mechanisms,’ September 2017: <https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights> pg. 62.

63 Ibid

64 Ibid



## B. BULLYING TACTICS: HARASSMENT BEFORE, DURING AND AFTER UN ADVOCACY

Engaging the UN mechanisms can be very risky for unrepresented diplomats who reside within the state they seek to criticise at the UN. As discussed above, while many states initially attempt to use bureaucratic means to block activists who may expose human rights violations, when these fail, or the activists find ways around them (such as securing accreditation and thus access to the UN through a supportive NGO), some states turn to more overt means to try and prevent these individuals from being successful in their advocacy. Unrepresented diplomats can be targeted before they arrive at the UN, during their time at the UN, and after their return to the state in which they reside. This targeting is an attempt to thwart the activist's successful advocacy at the UN, by preventing them from leaving the state, intimidating them into silence, publicly countering their narrative and undermining their credibility, or punishing them on their return to prevent future advocacy. This latter – targeting after the individual has returned home – is known as 'reprisal', and serves as both punishment for the advocacy carried out, and as a warning to the NGO about carrying out such advocacy again.

The majority of the unrepresented diplomats interviewed for this project had experienced some form of intimidation by a state government in direct relation to their advocacy work at the UN. Some had multiple incidents to share; many have come to view this behaviour as standard, and did not immediately report it as something out of the ordinary when asked. In what follows, a range of these experiences are documented in order to demonstrate the scale of the problem.

### i. Pre-UN trip harassment and intimidation

A number of respondents reported states interfering with their advocacy trip before it had even begun. Knowing that organisations can gain access to the UN through supportive NGOs with ECOSOC status, many states have sought to use other ways to prevent activists getting to the UN.

In-country harassment including physical violence against individuals and confiscating travel documents are used as way to prevent activists travelling to the UN. In September 2014, Crimean Tatar activists attempting to attend the World Conference on Indigenous Peoples were violently prevented from doing so.<sup>65</sup> The U.S. State Department's Country report on human rights for Ukraine (Crimea) noted that "Nadir Bekir, a Crimean Tatar scholar, reported he was attacked by masked assailants, dragged from his car, and had his telephone and passport confiscated to prevent him from attending the UN World Conference on Indigenous Peoples in New York City. Russian occupation authorities removed another activist, Gayana Yuksel, from a train to Kyiv, seized her passport, ripped a page out, and told her she could not travel to the conference because her passport was damaged".<sup>66</sup>

Arrest and detention is also used as a preventative measure for activists attempting to testify against state governments at the UN. In 2008, Southern Mongolian activist Naranbilig was arrested by Chinese authorities who had intercepted documents sent to him from the United Nations Voluntary Fund for Indigenous Populations regarding a grant for him to attend the Seventh Session of the United Nations Permanent Forum on Indigenous Issues. According to the Southern Mongolian Human Rights Information Center, these documents were the apparent basis for the authorities' placing Mr. Naranbilig under house arrest to prevent him from attending the Forum.<sup>67</sup> He was "placed under 1-year house arrest" following 20 days of detention.<sup>68</sup> In 2010, another Southern

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65 Interview with staff member from NGO working at UN, conducted by Iona Liddell, 13 January 2017.

66 U.S. Department of State, '2014 Human Rights Reports: Ukraine (Crimea)', 25 June 2015: <https://www.state.gov/j/drl/rls/hrrpt/2014/eur/237935.htm> pg. 63.

67 Southern Mongolian Human Rights Information Center, 'Well-known Journalist Naranbilig under House Arrest following 20 Days Detention', 28 April 2008: [http://www.smhric.org/news\\_205.htm](http://www.smhric.org/news_205.htm)

68 Southern Mongolian Human Rights Information Center, 'Southern Mongolian Representative to United Nations Conference Arrested at Beijing Airport', 23 April 2010: [http://www.smhric.org/news\\_287.htm](http://www.smhric.org/news_287.htm)

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Mongolian activist, Sodmongol [Chinese: Cao Du], received the same grant from the Voluntary Fund, but was arrested at Beijing airport when he was attempting to leave the country. He became the subject of an Amnesty International urgent action.<sup>69</sup> In September 2010, the UN Special Rapporteur on the rights of indigenous peoples questioned the Chinese government over his case.<sup>70</sup> At the time of writing, Sodmongol's health status and whereabouts remain unknown.

The highest profile example of Chinese in-country harassment in recent years has been the case of Cao Shunli, a well-known Chinese human rights defender who, on 14 September 2013, attempted to leave Beijing to travel to Geneva to carry out advocacy around the Universal Periodic Review process of China. She did not make it to Geneva, but was instead arrested at Beijing airport and detained.<sup>71</sup> In the months leading up to her arrest she had been vocal about the need for civil society participation in China's upcoming Universal Periodic Review, "...submit[ting] public letters and organiz[ing] peaceful protests in front of the Ministry of Foreign Affairs demanding governmental transparency in the drafting process and civil society participation."<sup>72</sup> Cao Shunli's arrest, detention and consequent death in prison is an extreme and yet key example of the way that states can seek to prevent, challenge and eventually silence their would-be detractors at the UN.

For some unrepresented nations and peoples, the state's surveillance and retribution is so strong that they are unable to even leave to come to the UN and testify. The reality is, one cannot meet a North Korean in Geneva who is an independent activist and planning to go back.<sup>73</sup> No Tibetan from Tibet who is acting independently of the Chinese government has ever managed to leave Chinese-occupied Tibet to testify at the UN in Geneva or New York, and then return safely.<sup>74</sup> As Human Rights Watch reports, "As of May 2016...there are plenty of...[human rights defenders in China who] are very important and influential in the human rights scene who wouldn't ever get to Geneva because they wouldn't be able to travel".<sup>75</sup> Suffice it to say that a wealth of talent and insight and possible change in this world at the UN level is lost because skillful, committed change-makers are held back at the departure gate, or worse.

Democratic states have also been observed making international participation difficult. Parmod Mehra of the Institute of Dalit Studies in India, for example, reported additional scrutiny of the organization's "overall mandate" and its "audit and accounts" because of the organization's caste-related work. He also noted difficulty getting "the visa [to travel to the UN] at appropriate times."

## ii. Harassment during UN advocacy

Unrepresented diplomats who manage to get to Geneva or New York to engage the UN mechanisms are often met with an additional set of challenges from states keen to prevent challenges to their official narratives on human rights. As detailed here, harassment during advocacy at the UN can take a number of forms.

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69 Amnesty International, 'Urgent action, ethnic Mongolian Activist Detained in China', 15 July 2010: <https://www.amnesty.org/download/Documents/36000/asa170292010en.pdf>

70 Anaya, James, 'Cases Examined by the Special Rapporteur (June 2009-July 2010)', 15 September 2015 : <http://unsr.jamesanaya.org/cases-2010/cases-examined-2009-2010-full-report>

71 Kaiman, Jonathan, 'Chinese activist Cao Shunli dies after being denied medical help, says website', *The Guardian*, 14 March 2014: <https://www.theguardian.com/world/2014/mar/14/china-activist-cao-shunli-dies-human-rights>

72 Richardson, Sophie, 'Dispatches: The Death of a Defender in China', *Human Rights Watch*, 13 March 2014: <https://www.hrw.org/news/2014/03/14/dispatches-death-defender-china>

73 Wright, Mike, 'Brutal and inhumane laws North Koreans are forced to live under' *The Telegraph*, 19 September 2017: <https://www.telegraph.co.uk/news/2017/09/19/brutal-inhumane-laws-north-koreans-forced-live/>

74 Tibetan witnesses who do come to the UN are either first generation refugees who left Tibet knowing they would not be able to safely return, or second or third generation Tibetans living in exile.

75 Human Rights Watch, 'The costs of International Advocacy: China's interference in United Nations Human Rights Mechanisms,' September 2017: <https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights> pg. 15.

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## 1. Labels and terminology

States' attempts to discredit, thwart or otherwise silence activists often take the form of challenging their use of particular terminology to describe homelands, state governments and civil society organisations. For example, minority groups are often labelled as 'separatist' by adversarial UN member states as a way to undermine their human rights concerns.<sup>76</sup> Abidine Merzough explained that in the case of the Haratin people in Mauritania, "the Aziz regime is leading a campaign against us – always communicating about us as 'separatist'". This has had a very real effect: "sometimes I face some problems when I speak to people, journalists, UN or deputies, trying to explain to [them] that the story from [the] regime is wrong; we are not fighting for our own territories or our separation – we are fighting for our rights".

'Terrorist' is another label used by some states to discredit activists, who must be nonviolent if they are to be considered Human Rights Defenders in line with the 1998 UN Declaration on Human Rights Defenders. Dolkun Isa of the WUC, which addresses China's human rights abuses in the Uyghur homeland of East Turkistan (known as 'Xinjiang' in China), has faced repercussions for being branded a 'terrorist' by China. In late 2003, the Chinese Ministry of Public Security issued a statement accusing four Uyghur organisations and 11 Uyghur individuals of being terrorists. Dolkun Isa's name was on the list, as were two organisations who were to merge the following year to become the WUC, the organization he subsequently worked for.<sup>77</sup> In 2005, when Isa was then General Secretary of the WUC, he tried to attend a session of the UN Human Rights Council, but was refused accreditation by the Secretariat, who said they needed to run a background security check on him. When he did not hear from them after two days, he went to join a Tibetan and Uyghur demonstration outside the UN against the human rights violations meted out on these peoples by China.

"We took the bus [to the demonstration], suddenly the Swiss police in uniform come in [the bus], and they ask us, 'please show your ID!' I showed my ID, [then] they said, come with us. I said, 'Where? What's the problem?!' They just put me in the car and took me to the police station...maybe one hour later, two police come in and they [ask] questions for me. Ask all my life story, where I was born, all my story, [it is a] long interview and I explain[ed] everything."<sup>78</sup>

The Swiss police eventually asked Isa to sign a document in French before he was released, but he explained he could not read it, and was worried about signing because he thought their behaviour towards him was as a result of pressure from the Chinese Government. The police denied they had been pressured, but told him he could not be released without signing it, and that finding a translator could take a day or two. Eventually Isa caved in and signed the letter. After his release, a number of organisations raised concerns about his treatment by the Swiss security forces, and the WUC contacted the Swiss Government for an explanation. The Swiss police simply responded that there had been a 'misunderstanding'.<sup>79</sup> When Isa tried to enter the UN the following year, he was able to unhindered.<sup>80</sup>

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76 There are of course some unrepresented diplomats who view change in governance as either correct, or as the only way to stop the human rights violations perpetrated against their communities, and that this change should include control over their historical territories. That the label 'separatist' can be used to undermine activists at the UN points to the need to rehabilitate the right to self-determination at the UN, which is the first article in both UN human rights covenants, so that being labelled a separatist would not have the same negative connotations it currently does. Rather, making claims to decide upon their own political future would denote a particular community's socio-political position and their desire to achieve the right of self-determination.

77 Interview with Dolkun Isa, conducted by Iona Liddell, 25 October 2018.

78 Ibid.

79 Interview with Dolkun Isa, conducted by Iona Liddell, 1 July 2016.

80 Interview with Dolkun Isa, conducted by Iona Liddell, 25 October 2018.

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However at the Committee on the Elimination of Racial Discrimination (CERD) review of China in 2009, problems again arose, when Isa was prevented from organising a press conference. As he was leaving for Geneva, Isa, who had already issued an announcement to the press and reserved a room for the press conference, received several emails from journalists telling him that China's mission to the UN had sent media representatives in Geneva a letter asking them not to attend the press conference on the grounds that, "Dolkun Isa is terrorist."<sup>81</sup> When Isa arrived at the UN in Geneva, security personnel told him that he would have to have the accompaniment of a security officer for the entire duration of his time inside the UN buildings. They said it was for his own safety, but Isa could not help but suspect that it was him they were suspicious of.

In addition to states labelling individuals and groups in ways that are unsubstantiated but nevertheless raise security concerns, some states also instrumentalise naming disputes over territories in order to intervene in speeches given by unrepresented diplomats at the UN. For example, the Aceh-Sumatra National Liberation Front is a movement that calls for self-determination of Aceh, and Indonesia's state representative to the UN often raises points of order challenging the organisation's name.<sup>82</sup>

State diplomats at the UN Forum on Minority Issues often use naming disputes to interrupt speakers from minority communities, challenging what they deem to be the use of inaccurate or provocative names for parts of their territories. In many cases, UN officials seemingly fail to see wider implications of this practice, allowing these interruptions and in many instances upholding the 'points of order'. When Sheyma Silavi of the Ahwaz Human Rights Organisation stated in her oral intervention to the ninth Forum on Minority Issues that "the Ahwazi Arab minority lives in the province of Khuzestan, or [as] also called by its indigenous name Al-Ahwaz or Arabistan...." she was interrupted by the representative of the Islamic Republic of Iran rapping his name plate on his desk. In being given the floor, the Iranian diplomat appealed to the Chair that Sheyma should "refrain from using the fabricated names regarding the Iranian territories."<sup>83</sup>

Since 2009, the WUC and other Uyghur groups have faced a similar issue when talking of their homeland as 'East Turkestan', rather than the Chinese term 'Xinjiang'. China consistently interrupts proceedings if they hear "East Turkestan" being used. Some UN officials have also asked the Uyghurs to refrain from using the term, arguing that it is not 'UN language'. In one incident in August 2018, the WUC had submitted a report to the Committee on the Elimination of Racial Discrimination for their review of China. UN staff members removed their report from the website and called the WUC office to request that they remove the phrase 'East Turkestan' from two footnotes, despite the fact that this was the title of the publication in the footnotes. WUC were disturbed that this request was not made in writing, and very much believe this was as a result of Chinese pressure.<sup>84</sup>

China has also sought to challenge and restrict discussion of Taiwan at the UN, beyond the significant restrictions already in place with Taiwan neither having a UN representative, nor activists being allowed access to the UN buildings if they use a Taiwanese passport as their identity document.<sup>85</sup> One Taiwanese respondent recalled that in 1999 the Chinese Government repeatedly interrupted her speech thinking she was saying "Taiwan", when in fact she was referring to the 'Paiwan' minority group in Taiwan, whose obscurity in the state's view was very clearly demonstrated by that mix up.<sup>86</sup>

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81 Interview with Dolkun Isa, conducted by Iona Liddell, 1 July 2016.

82 Interview with Ariffadillah, conducted by Iona Liddell, 14 January 2017.

83 UN Web TV, 'Protecting minority rights during humanitarian crises,' Ninth session of the Forum on Minority issues, 25 November 2016: <https://www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/Session9.aspx>

84 Email exchange with WUC staff member, November 2018.

85 Jacobs, Andrew 'Sideline at the U.N., a Frustrated Taiwan Presses On', *New York Times*, 22 September 2016: <https://www.nytimes.com/2016/09/23/world/asia/taiwan-china-united-nations-un.html>

86 Interview with Kun-Hui Kun, conducted by Iona Liddell, 6 October 2016.

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The need for unrepresented nations and peoples to have some form of recognition of their community and/or homeland by UN officials and diplomats goes beyond identity politics. For example, Tibet Advocacy Coalition has been at pains to have UN experts and diplomats be specific when talking about Tibet and Tibetans, and to say those terms rather than the vague blanket phrases that China employs, such as ‘ethnic minorities’ and ‘religious minorities’. In using general phrases such as these, the specific violations against the specific groups of people are lost and cannot easily be held up as issues that China must account for. Additionally, groups with a claim to self-determination are done a disservice when their very identity and experience as a group is subsumed into a wider, generic term.

## 2. Interruptions

As noted above, a common tactic used by states to challenge and harass unrepresented diplomats is to interrupt the latter’s speeches with points of order within the plenary sessions of the Human Rights Council, or the Forum on Minority Issues, as well as during side events. A UN official noted that at the ninth Forum in 2016, “China and other countries were extremely disruptive and raising points of order all the time, which were not really points of order, but basically complaints about certain NGOs being allowed to participate and take the floor”.<sup>87</sup>

The Ninth session of the Forum on Minority Issues in 2016 saw an unprecedented number of interruptions by member states. Delegates from the Ahwazi Arab community in Iran, Uyghurs in China, and the Ogaden in Ethiopia, amongst others, were interrupted by diplomats from their states and each interruption was followed by a sequence of statements of support and opposition by other states. Emblematic of this was the intervention by Enghebatu Togochoog of the Southern Mongolian Human Rights Information Center (SMHRIC). Togochoog began by setting out “the devastating effect of mining, land-grabbing and environmental destruction by the Chinese in Mongolian rural pastoralist areas” and then discussed the excessive use of force by Chinese police on Mongolian herders who seek to defend their land. At this point the representative from the People’s Republic of China made a point of order. The Chair asked Togochoog to stop and gave the floor to the Chinese representative who delivered a statement “reiterating that the autonomous region of Mongolia in China is an inalienable part of the Chinese territory”, denouncing “separatist elements” using the Forum to challenge member state’s “sovereignty and territorial integrity”, and asking the chair to “stop the discourse”. In the 18 minutes that followed Venezuela, Pakistan, Libya, Russia, Mauritania, Syria, Cuba and Iran all made points of order to support the statement made by the Chinese delegation, while Austria, the U.S., United Kingdom, Canada and Norway made statements in support of the SMHRIC representative to continue their statement and asking that other state delegations respect the right of civil society representatives to participate in the Forum. The Chair eventually allowed the SMHRIC representative to continue his statement.<sup>88</sup>

In terms of how the states framed their actions, these were interruptions rather than disruptions to the business of the Forum. China, Iran, Russia and others employed the established mechanism of raising a ‘point of order’ – a privilege that only state delegates have – to stop a minority speaker. However, by using their interruption to challenge the legitimacy of an NGO, to claim that reports delivered were “inaccurate and politically motivated” (Indonesian delegate interrupting a West Papuan speaker) or that particular NGOs were “linked to terrorist organisations and therefore distorted the noble cause of the forum” (Ethiopian delegate interrupting the Ogaden Young Women’s representative),<sup>89</sup> these interventions contravened the UN’s Rules of Procedure which state that “a representative rising to a point of order may not speak on the substance of the matter

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87 UN Official, quoted in Human Rights Watch, *The Costs of International Advocacy: China’s Interference in United Nations Human Rights Mechanisms*, September 2017: <https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights> pg. 25.

88 For a transcript of the SMHRIC statement and interruptions see: [www.smhric.org/news\\_602.htm](http://www.smhric.org/news_602.htm)

89 UN Web TV, ‘Protecting minority rights during humanitarian crises,’ Ninth session of the Forum on Minority issues, 25 November 2016: <https://www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/Session9.aspx>

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under discussion” (Rules of Procedure, XII Rule 71[113]).<sup>90</sup> As a transgression of the norms of the appropriate use of points of order these were deliberately *disruptive* acts: their purpose was to discredit and vilify minority speakers and have it on record their disagreement with what was being said and to cut the speaking time of particular speakers, effectively reducing the number of speaking slots available over the two days of the Forum.

In 2017, when interrupting minority representatives, states, later echoed by the Chair, recommended that NGOs not speak about ‘political’ issues, saying that this would contrast with the purpose of the Forum.<sup>91</sup> This was surprising, as the issue itself of being a minority or feeling ‘minoritised’ within a country necessarily derives from political elements such as a country’s own policies, as was stated by Mona Silavi in her intervention on the last day:

“It’s really hard to tell the world about years of oppression and injustice in three minutes, and in the middle [you’re] cut off and [then] told to stick to the rules where are the rules to protect me when they change the name of my homeland? No law protected me then.”<sup>92</sup>

Beyond formal proceedings, interruptions are also orchestrated at side events at the UN. Abidine Merzough from IRA-Mauritania spoke of how both of the times his group had organised a side event at the UN Human Rights Council in Geneva, GONGOs “took the floor and...wanted to use the whole time just singing and telling ‘blah blah blah’ [about] the regime, they just want[ed] to avoid that the public follow what we are telling.” On these occasions, the Ambassador and his entire staff team had attended “and all spoke for the regime against us.”<sup>93</sup>

A skilled moderator of a side event would be able to allow space for such state intervention, without it dominating or ending the proceedings. However in some instances, where moderators are unskilled, or where the individuals interrupting are extremely persistent, then these disruptions become difficult to manage and often side-line the unrepresented diplomats. Some respondents spoke of their frustration about such situations where they felt that the UN officials were not fully supporting the unrepresented diplomat’s right to express their opinions.

### 3. Intimidation

The UN buildings are unique spaces in that they are often the only places in which activists come into direct contact with representatives of the states that are violating their people’s rights. There are formal encounters, in the roles both civil society and states take in human rights reviews and forums, but there is also room for informal encounters in the corridors, cafes and canteens of the buildings. Many unrepresented diplomats feel the need to stay vigilant, in order to prevent being spied upon or threatened in these spaces.

Many activists find the public discrediting of their work by states intimidating. When an Iranian member of the board of representatives of the UN Permanent Forum on Indigenous Issues publicly referred to Monireh Shirani’s organisation as ‘terrorists’, Shirani said, “for a young person that was quite intimidating because that was one of my first encounters with the Iranian state.”<sup>94</sup>

During the Ninth session of the Forum on Minority Issues in 2016 the Ethiopian state delegates requested security to remove from the premises a civil society delegate representing the Ogaden People’s Rights Organisation, claiming that he was a ‘terrorist’ and that he should not have been granted accreditation to the Forum. A number of security personnel entered Room XX and

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90 UN General Assembly, Rules of Procedure: <http://www.un.org/en/ga/about/ropga/plenary.shtml>

91 UN Web TV, ‘Minority youth: towards diverse and inclusive societies,’ Tenth session of the Forum on Minority issues, 30 November-1 December 2017: <https://www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/Session10.aspx>

92 Interviewed by Iona Liddell, 8 December 2016.

93 Interviewed by Iona Liddell, 13 August 2016.

94 Interviewed by Iona Liddell, 4 October 2016

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were ready to remove the delegate, but thanks to the support of a Minority Forum Secretariat representative, it was clarified that the Ogaden activist had applied for and received accreditation, and that there was no reason to remove him, so he was allowed to stay.<sup>95</sup>

For other unrepresented diplomats, being approached by GONGOs is a key challenge. Mona Silavi of Ahwaz Human Rights Organisation, spoke of GONGO members who would “come and harass [me, saying]...‘you are a lawyer, you’re getting money from Israel’ or whatever. ‘You are happy in our country’, and ‘we won’t let you destroy our country’, and stuff like that. It is totally informal, nothing you can condemn the Iranian government [for], nothing that you can really accuse anybody of.”<sup>96</sup>

Yet others have had to deal with threatening phone-calls, such as Mongolian activist Enghebatu Togochoq who recalled that he received what he described as ‘hostile’ phone calls, where the caller stated that the independence and freedom of Southern Mongolia is impossible, and warned Togochoq to halt his advocacy activities or else there would be “serious consequences.”<sup>97</sup> Togochoq tried to report this to the police in the U.S. where he is based, but because it did not occur daily they did not treat it as a matter of urgency.

State intimidation can also take more subtle forms. For example Monireh Shirani spoke of how Iranian state agents contacted her through Facebook’s messaging service. As she explained, “The Iranians are interesting because they are not like the Chinese [representatives], they are not aggressive in public, they don’t always bang the microphone when you’re speaking...they try to be more diplomatic, more calm, which is actually more frightening than if you were to see someone starting yelling, because you really don’t know what they are thinking.”<sup>98</sup> This intimidation takes the form of surveillance in UN spaces. As Shirani explained, “They [Iranian representatives] would sit behind you, or quite close to you, or if you have a panel discussion they would just sit in front of you so you could see them always having a smirk [on their faces]...I’ve only seen men at my panel discussions or different forums at the UN trying to sit next to you and also in the cafeteria they will always sit next to you, a bunch of the Iranian delegates. They will just sit there and try to listen.”<sup>99</sup>

Chinese, Uyghur, Southern Mongolian, and Tibetan activists report similar behaviour from Chinese GONGOs and diplomats. After a side event at the Seventh session of the Forum on Minority Issues in 2014, several Chinese individuals followed representatives from the Southern Mongolian Human Rights Information Centre, and sat next to them in the cafeteria.<sup>100</sup> Sometimes China’s presence appears to be for a show of force, presumably meant to be intimidating to both civil society and UN officials. This was evident in the 2014 Committee on Economic, Social and Cultural Rights (CESCR) review, where the large Chinese delegation attempted to take up all the seats that were meant for the NGOs, leading the Chair of the Committee to comment on the delegation’s unusually large size, and for the UN staff to have to defend the space for civil society.<sup>101</sup>

During the 2013 China Universal Periodic Review, Chinese GONGO members sat in seats all around the activists in the plenary session, and appeared to be trying to separate the activists from each other, for example claiming empty seats immediately after activists vacated them. It was in this context that the photos of Ti-Anna Wang were taken, as discussed above.

Photographing is a tactic designed to unnerve activists, reminding them viscerally of state surveillance and the possible repercussions of their activism on either themselves or their family

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95 Witnessed by Tommaso Nodari, then staff member with UNPO.

96 Interviewed by Iona Liddell. 5 October 2016

97 Interviewed by Iona Liddell. 20 October 2016

98 Interviewed by Iona Liddell. 5 October 2016

99 Ibid.

100 Interview with Enghebatu Togachog, conducted by Iona Liddell, 20 October 2016.

101 As witnessed by Iona Liddell, Executive Director of Tibet Justice Center.

members. Southern Mongolian activists report being frequently photographed by Chinese individuals at the UN. At a UNHRC side event on Enforced Disappearance in China in March 2013, Chinese diplomatic personnel and GONGO representatives took photographs of the speakers, who included Southern Mongolian and Uyghur speakers.<sup>102</sup>

In another incident, in March 2015, Reuters reported that as Tibetan monk Golog Jigme prepared to testify before the Human Rights Council, “a senior Chinese diplomat, Zhang Yaojun, was in the crowded café. Zhang stood just a few meters from the table where the bald monk was seated in his saffron robes. ‘He just took a photo of me,’ Golog Jigme said, gesturing at Zhang, who was standing with his smartphone in his hand. Zhang’s action violated a ban on photography in the halls of the UN, except by accredited photographers.”<sup>103</sup> At the review of China by the Committee Against Torture in November 2015, Chinese individuals again took photographs of activists.<sup>104</sup>

When questioned by Reuters about the March incident, the then UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein said that he was “extremely concerned by the increasing number of cases of harassment or reprisals against those cooperating with the Human Rights Council.” He also noted that his office is “well aware of these problems, which unfortunately happen repeatedly – and are not confined just to China”.<sup>105</sup>

Indeed, in March 2012, Sri Lankan civil society activists were targeted in Geneva by Sri Lankan state authorities, prompting the then UN High Commissioner for Human Rights, Navi Pillay, to release a strongly worded statement noting that there had been an “unprecedented and totally unacceptable level of threats, harassment and intimidation directed at Sri Lankan activists who had travelled to Geneva to engage in the debate, including by members of the 71-member official Sri Lankan government delegation”.<sup>106</sup>

In the same statement, the High Commissioner noted that targeting of the Sri Lankan activists was also happening in Sri Lanka, where “newspapers, news websites and TV and radio stations...have been running...a ‘continuous campaign of vilification’...showing images of activists, describing them as an ‘NGO gang’ and repeatedly accusing them of treason, mercenary activities and association with terrorism...and that some of the attacks on human rights defenders were carried in Sri Lankan state media and Government websites or were filed by journalists who had been officially accredited to the Council session by the Sri Lankan authorities.”<sup>107</sup>

### iii. Post-UN trip reprisals

Unrepresented diplomats also reported suffering reprisals when they return to their country of residence after conducting human rights advocacy at the UN. This is especially so if their country of residence is run by the government that they have testified against at the UN.

In 2009 a Southern Mongolian activist Tugusbayar Yanjadiin attended the UN Permanent Forum on Indigenous Issues in New York, but after his return to Southern Mongolia, he was questioned by the Chinese State Security authorities, and he remains closely monitored.

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102 Interview with Enghebatu Togachog, conducted by Iona Liddell, 20 October 2016.

103 Wee, Sui-Lee, and Nebehay, Stephanie, ‘At U.N., China uses intimidation tactics to silence its critics,’ *Reuters*, 6 October 2015: <https://www.reuters.com/investigates/special-report/china-softpower-rights/>

104 Interview with Enghebatu Togachog, conducted by Iona Liddell, 20 October 2016.

105 Wee, Sui-Lee, and Nebehay, Stephanie, ‘At U.N., China uses intimidation tactics to silence its critics,’ *Reuters*, 6 October 2015: <https://www.reuters.com/investigates/special-report/china-softpower-rights/>

106 UN News, ‘Senior UN official warns against harassing Sri Lankan human rights defenders’, 23 March 2012: <http://www.un.org/apps/news/story.asp?NewsID=41617>

107 *ibid*

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Reprisals are sometimes meted out by the government to family members. Monireh Shirani, based in Europe, described how after a trip she made to the UN in 2010 the Iranian Government called both her and her father in Iran. She was able to ignore their calls, but they asked her father why she had been at the UN, telling him that “she isn’t supposed to do this”.<sup>108</sup>

In July 2018, Radio Free Asia reported that Uyghur activist Dolkun Isa’s mother, Ayhan Memet, had recently died “while in detention at a ‘political re-education camp’” in northwest China’s Xinjiang Uyghur Autonomous Region (XUAR). The article noted that “Uyghurs with relatives living abroad are frequently targeted...[and that] amid an information clampdown in the region, many Uyghurs in exile have difficulty learning about the circumstances of loved ones back home.”<sup>109</sup>

In his 2017 annual report on reprisals to the UN Human Rights Council, the UN Secretary General noted he was “alarmed” by the increase in the number of reported cases of intimidation and reprisal against individuals for cooperation with the UN on human rights.<sup>110</sup> As ISHR notes, “not only are there more cases, but the range of reprisals and intimidations has become ‘broader’, and the ‘means used increasingly blunt’”.<sup>111</sup> In reference to the UN Secretary General’s 2018 report, the UN Assistant Secretary-General noted they “are also increasingly seeing legal, political and administrative hurdles used to intimidate – and silence – civil society”<sup>112</sup> and that “we should all be deeply shocked and angered by the extent to which civil society actors suffer reprisals because of their work.”<sup>113</sup>

#### iv. Impact on Unrepresented Diplomats’ Work

The impact of reprisals and incidents of harassment and intimidation on unrepresented diplomats is both personal and professional. Individuals who face retaliation and reprisals for their UN engagement are left facing stark choices about carrying on their advocacy work, knowing that they risk facing hostile reactions if they do. Unsurprisingly, many activists who take these risks are already living in the diaspora. The end result is that many of the worst human rights abusing states do not have direct eyewitnesses able to come to the UN to testify. The overall effect of this is a shutting down of the space for representatives of minority communities, indigenous peoples, and occupied territories at the UN – the very people who are key witnesses and players in contemporary disputes and human rights issues.

There is a sense among many of the major international NGOs engaging the UN human rights mechanisms that the situation for human rights defenders at the UN is deteriorating, as states averse to human rights discourse are increasingly asserting their authority in the international arena. A spokesperson from a minority rights INGO noted that at the Second session of the UN Forum on Minority Issues in 2009, there were hardly any security incidents, whereas throughout the past 3 or 4 years there had been “at least one person reporting a threat on account of the interventions made. So definitely from [threats to activists] being the exception, it’s become the rule.”<sup>114</sup>

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<sup>108</sup> interviewed by Iona Liddell, 4 October 2016.

<sup>109</sup> Radio Free Asia, ‘Uyghur Exile Group Leader’s Mother Died in Xinjiang Detention Center’, 2 July 2018: <https://www.rfa.org/english/news/uyghur/mother-07022018164214.html>

<sup>110</sup> Human Rights Council, “Annual report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights,” Thirty-sixth session, 11-29 September 2017, A/HRC/36/31: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/247/10/PDF/G1824710.pdf?OpenElement>

<sup>111</sup> ISHR, ‘Reprisals: States and UN mechanisms must protect victims and address reprisals says UN chief’, 19 September 2017: <https://www.ishr.ch/news/reprisals-states-and-un-mechanisms-must-protect-victims-and-address-reprisals-says-un-chief>

<sup>112</sup> OHCHR, ‘UN report warns of alarming scope and effect of reprisals on victims, activists and human rights defenders’, 12 September 2018: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23540&LangID=E>

<sup>113</sup> Ibid.

<sup>114</sup> Interviewed by Iona Liddell, 13 January 2017.

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There has also been an increase in the use of points of order to disrupt speakers from marginalised communities. The same respondent said that “we had always seen maybe one, two, or three points of order, the classic ones...[but] this continuous point of order, being backed by other states...lining up and so on, I do not think we had ever seen.”

This is in line with others’ analysis, including Human Rights Watch, that the space for civil society at the UN is being increasingly challenged.<sup>115</sup> Led by states such as China and Russia, this is part of a wider challenging of the global human rights discourse. This trend will make human rights defenders’ work at home and at the UN increasingly difficult, and potentially dangerous, with incidences of intimidation and aggression likely to increase.

As the climate for human rights defenders, including unrepresented diplomats, engaging the UN worsens, there is an urgent need to investigate exactly how incidents of intimidation, harassment and reprisal against them are able to happen, and then to use that knowledge to assess what can be done further to protect those who stand witness in front of the world, providing the testimony that the UN human rights mechanisms need in order to effectively operate.

## 4. CREATING A SAFER ENVIRONMENT

There has been a growing awareness over the past decade among UN officials of the increased vulnerability that some human rights defenders experience as a result of taking part in UN advocacy.

Since 2010, the UN Secretary General has provided an annual report to the Human Rights Council on alleged reprisals against defenders who cooperate with the UN human rights mechanisms.<sup>116</sup> In October 2016, the UN Secretary General designated the Assistant Secretary-General for Human Rights as the senior official to lead efforts within the UN system to address intimidation and reprisals<sup>117</sup> – a move that “underscored the need to strengthen action across the system to prevent, respond to and address [reprisals]”<sup>118</sup> in the wake of an increase in the number of reported cases of intimidation and reprisal for cooperation with the UN on human rights. Since then the Assistant Secretary-General has claimed that he has “addressed specific situations and individual cases with Member States in intergovernmental forums and through quiet diplomacy with concerned Governments, including with Permanent Representatives to the United Nations and during field missions”, as well as engaging with a number of UN entities, including the President of the Human Rights Council, the Chair of the Committee on Non-Governmental Organizations, Special Procedures mandate holders, treaty bodies, and heads of human rights field presences.<sup>119</sup>

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115 Human Rights Watch, ‘The costs of International Advocacy: China’s interference in United Nations Human Rights Mechanisms,’ September 2017: <https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights>

116 OHCHR, ‘Reporting mandate of the Secretary-General on intimidation and reprisals for cooperation with the UN in the field of human rights’, <http://www.ohchr.org/EN/Issues/Reprisals/Pages/Reporting.aspx>

117 ISHR, ‘Ban Ki-moon appoints high-ranking official to combat reprisals against human rights defenders’, 4 October 2016: <http://www.ishr.ch/news/ban-ki-moon-appoints-high-ranking-official-combat-reprisals-against-human-rights-defenders>

118 Human Rights Council, “Annual report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights,” Thirty-sixth session, 11-29 September 2017, A/HRC/36/31: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/247/10/PDF/G1824710.pdf?OpenElement>

119 OHCHR, ‘Reporting mandate of the Secretary-General on intimidation and reprisals for cooperation with the UN in the field of human rights’, <http://www.ohchr.org/EN/Issues/Reprisals/Pages/Reporting.aspx>

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The Office of the High Commissioner on Human Rights has also taken a lead in making the case for ensuring the UN is a safe and secure space for human rights defenders. The Office has a webpage that sets out how to share information about cases of intimidation and reprisals,<sup>120</sup> and previous High Commissioners for Human Rights have spoken out in support and defense of human rights defenders. For example, in 2012, in response to Sri Lankan human rights defenders being harassed by the Sri Lankan government in both Sri Lanka and at the UN in Geneva, Navi Pillay called on the Government of Sri Lanka “to ensure the protection of human rights defenders, to publicly disassociate itself from such statements, and to clearly uphold the right of Sri Lankan citizens to freely engage in international debate of this kind”.<sup>121</sup> Similarly, Zeid Ra’ad Al Hussein noted in his 7 June 2017 statement to the 35<sup>th</sup> session of the Human Rights Council that his own “staff, the Special Procedures and Treaty Bodies rely on members of civil society and national human rights institutions, alongside many others, for insight and information” and that it is the UN’s (including the Council members’) responsibility “to do all we can to protect them”, urging the UN member states’ cooperation with the Assistant Secretary-General for Human Rights.<sup>122</sup> These interventions have been timely and strong: a model example of rising to protect those being targeted.

A number of UN member states have also used the Human Rights Council to voice concerns about reprisals against human rights defenders. During the 34<sup>th</sup> session of the Human Rights Council in March 2017, a core group of states on reprisals (Fiji, Ghana, Hungary, Ireland and Uruguay), speaking on behalf of a group of 67 States, “expressed deep concern over continued reprisals, urged all States to prevent and refrain from committing such acts, and welcomed the designation of a senior official to lead efforts by the United Nations on this issue.”<sup>123</sup>

The UN Special Procedures also now regularly address the issue of intimidation and reprisals, particularly when the attacks are related to a defender engaging a special rapporteur or working group. In 2016, Special Procedures addressed 61 such communications to 45 States and one non-state actor, and further used public statements, press releases, reports and meetings with various stakeholders to express their “grave concern” at all such acts.<sup>124</sup> They have a point person for reprisals and a web page dedicated to the issue.<sup>125</sup> In September 2014, then Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Maina Kiai, focused his thematic report on the UN and member states’ responsibilities to strengthen civil society participation, NGO access to the UN, and responses to reprisals.<sup>126</sup>

UN Treaty bodies have also taken action and, in July 2016, the Chairs of human rights treaty bodies recommended the implementation by all treaty bodies of the Guidelines against Intimidation or Reprisals (known as the ‘San Jose Guidelines’)<sup>127</sup> adopted at their 2015 meeting.<sup>128</sup> In June 2018,

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120 <http://www.ohchr.org/EN/Issues/Reprisals/Pages/HowToShareInformationAboutCases.aspx>

121 UN News, ‘Senior UN official warns against harassing Sri Lankan human rights defenders’, 23 March 2012: <https://news.un.org/en/story/2012/03/407102-senior-un-official-warns-against-harassing-sri-lankan-human-rights-defenders>

122 OHCHR, ‘Denial of access and lack of cooperation with UN bodies will not diminish scrutiny of a State’s human rights record. Opening Statement by Zeid Ra’ad Al Hussein’, Human Rights Council 35<sup>th</sup> session, 6 June 2017: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21687&LangID=E>

123 Human Rights Council, ‘Annual report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights,’ Thirty-sixth session, 11-29 September 2017, A/HRC/36/31: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/247/10/PDF/G1824710.pdf?OpenElement>

124 Ibid.

125 <http://www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx>

126 United Nations General Assembly, ‘Rights to freedom of peaceful assembly and association. Note by the Secretary-General’ Sixty-ninth session, 1 September 2014, A/69/365: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/523/22/PDF/N1452322.pdf?OpenElement>

127 International Human Rights Instruments, ‘Guidelines against Intimidation or Reprisals (“San José Guidelines”)’ 30 July 2015, (HRI/MC/2015/6): [https://digitallibrary.un.org/record/820400/files/HRI\\_MC\\_2015\\_6-EN.pdf](https://digitallibrary.un.org/record/820400/files/HRI_MC_2015_6-EN.pdf)

128 At the time of writing, eight of the ten treaty bodies had adopted the guidelines.

the Special Rapporteur on the situation of human rights defenders, along with all 10 treaty bodies released a joint statement that “reaffirms that all individuals should be able to engage with the Treaty Bodies free from all forms of interference, intimidation, abuse, threat, violence, reprisal, or undue restriction.”<sup>129</sup>

Also in June 2018, the NGO Committee had its first consultation between members of the Committee and NGOs in consultative status with the Economic and Social Council on the contribution of NGOs to the work of the Council and its subsidiary bodies, including on improving the access of NGOs to the United Nations.<sup>130</sup>

While these positive steps taken to raise awareness of reprisals faced by human rights defenders and create a safer environment in which unrepresented diplomats can engage is encouraging, they are currently not enough. For example, the Human Rights Council “is legally obliged to take action if it possesses information about a credible risk or allegation of reprisals and to protect individuals who communicate, cooperate or seek to engage with the Human Rights Council, its independent experts or the Universal Periodic Review process.”<sup>131</sup> ISHR’s analysis is that although the President and Bureau of the Human Rights Council “maintain their rhetorical commitment to addressing reprisals, visible action to prevent and if necessary respond and ensure accountability for cases of reprisals remains weak.”<sup>132</sup> Our research also identified gaps in which unrepresented diplomats themselves do not feel informed about or connected to the protocols and persons designated for their protection. As such, our research tallies with ISHR’s finding regarding the UN Assistant Secretary-General’s role that there is a need for “a clearer, accessible, public-facing policy on how the senior official addresses cases of reprisals... to ensure that victims can effectively access the protection the senior official can provide.”<sup>133</sup>

The majority of activists interviewed for this report were highly sceptical of the level of support they could expect from the UN in response to bullying and blocking tactics by member states. Three concerning trends emerged from our research.

First, the provision of support to human rights defenders is undermined by worrying examples of where the UN has acted against NGOs in the interests of states (as described in detail above). The ejection of Uyghur activist Dolkun Isa from the Permanent Forum on Indigenous Issues, and the barring of NGOs from President Xi Jinping’s address to the UN both set a disturbing tone for how the UN human rights mechanisms at times choose to diminish the safe space for NGOs in general, let alone NGOs representing unrepresented nations and peoples.

Second, there is a wide gulf between the UN services available to defenders at risk, and the awareness of these services among the defenders themselves. Not one of the 20 unrepresented diplomats interviewed for this research, nor any of the 63 survey respondents, were confident that they would know to whom within the UN mechanisms they should report an incident of harassment or reprisal, nor were they aware of the support available to them. Despite a majority of these activists experiencing incidents of intimidation or harassment, only one had ever actually reported an incident.

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129 OHCHR, ‘Joint Statement on the UN Defenders Declaration’, 1 June 2018: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23173&LangID=E>

130 OHCHR, ‘Reporting mandate of the Secretary-General on intimidation and reprisals for cooperation with the UN in the field of human rights’, <http://www.ohchr.org/EN/Issues/Reprisals/Pages/Reporting.aspx>

131 ISHR, ‘Human Rights Council: Time to act on legal obligation to end reprisals’, 20 November 2014: <http://www.ishr.ch/news/human-rights-council-time-act-legal-obligation-end-reprisals> .

132 ISHR, ‘Ending reprisals against those who cooperate with the UN in the field of human rights: Submission to the UN Secretary-General on recent developments, cases and recommendations’, May 2018: <https://www.ishr.ch/submission-sg-reprisals-report-2018-ishr> pg. 3.

133 *ibid*

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This lack of reporting leads to the third trend, where defenders that have engaged these services note a lack of follow-up support. In the aftermath of the incident in 2017 when Uyghur activist Dolkun Isa was barred from entering the Permanent Forum on Indigenous Issues, 15 NGOs, including Human Rights Watch, Minority Rights Group, and UNPO, joined the World Uyghur Congress in issuing a public statement condemning the situation.<sup>134</sup> WUC also apprised a number of UN officials of the situation; writing to the UN High Commissioner for Human Rights, meeting with the Special Rapporteur on the situation of human rights defenders, and telephone-conferencing with the office of the UN Assistant Secretary-General. Society for Threatened People (STP), with whom Isa was affiliated for the Forum, raised concern about this to the President of the Permanent Forum on Indigenous Issues. Despite all of this contact, Isa said “We didn’t really get an official response. They didn’t really explain anything...nobody took responsibility.”<sup>135</sup>

In lieu of full support from UN entities, international NGOs based in Geneva, including ISHR, have been finding ways to work with defenders at risk of harassment and reprisal at the UN, and in doing so have been modelling good practices. One such practice, aimed at avoiding direct harassment from state representatives and GONGOs, is to hold parallel private briefing meetings in Geneva at the UN for treaty body members in the run-up to a member state’s treaty body review. These are invite-only meetings, where a range of known human rights defenders are brought together in a space of safety and trust, where they can be open with their evidence and information for the treaty body members. This is especially important for defenders who plan to return to a country where they are at risk of reprisal for speaking out.

While such private briefing meetings are useful, UN mechanisms themselves need to be taking the initiative to create safer spaces. International NGOs have been working together to push for this. For example, ISHR presented a report to the Human Rights Council on reprisals against human rights defenders who engage with the UN, and in May 2016, 230 NGOs joined forces to complain about difficulties accessing ECOSOC status.<sup>136</sup> ISHR’s June 2017 submission to the Office of the High Commissioner for Human Rights emphasised the “critical and vital role of civil society in UN and regional human rights mechanisms, as well as existing challenges and obstacles to participation”,<sup>137</sup> which added weight to the UN High Commissioner on Human Rights’s report on civil society engagement at the UN, launched in June 2018.<sup>138</sup> The OHCHR report highlights the important role played by civil society in terms of advocacy, expertise and implementation in its engagement with regional and international organisations; summarises good practices adopted by some of those organisations in terms of civil society participation; identifies the challenges that civil society encounters in its engagement, such as reprisals, lack of transparency and access; and recommends that regional and international organisations establish clear and effective channels for meaningful and equal civil society participation and engagement.<sup>139</sup> This is a stark call for the UN as a whole, from the UN’s highest-ranking human rights-focused official, to be actively providing meaningful support to human rights defenders.

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134 UNPO, ‘Uyghur Human Rights Activist Expelled From UNPFII’, 8 May 2017: <https://unpo.org/article/20072>

135 Interviewed by Iona Liddell, 25 October 2018.

136 ISHR, ‘230 NGOs call for defence of freedom of association at the UN’, 25 May 2016: <http://www.ishr.ch/news/230-ngos-call-defence-freedom-association-un>

137 ISHR, ‘ISHR calls for the strengthening of civil society participation in all human rights mechanisms’, 16 November 2017: <https://www.ishr.ch/news/submission-ishr-calls-strengthening-civil-society-participation-all-human-rights-mechanisms>

138 ISHR, ‘According space to civil society is not optional, says UN High Commissioner’, 11 June 2018: <http://www.ishr.ch/news/ngo-access-according-space-civil-society-not-optional-says-un-high-commissioner>

139 Human rights Council, ‘Procedures and practices in respect of civil society engagement with international and regional organizations. Report of the United Nations High Commissioner for Human Rights’, Thirty-eighth session, 18 June – 6 July 2018: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/107/48/PDF/G1810748.pdf?OpenElement>

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## 5. CONCLUSION

In the current international context, where “civil society meets unprecedented challenges and restrictions globally”<sup>140</sup> and where “the world’s powerful are increasingly using toxic narratives of fear and division casting collective blame for social ills onto minority groups”,<sup>141</sup> unrepresented diplomats are needed more than ever before to testify at the UN and, in doing so, support the functioning of the UN human rights mechanisms, and push for change.

Our research findings reveal a situation where unrepresented diplomats, along with other human rights defenders, are often and increasingly blocked, harassed, intimidated, and even attacked or arrested by state actors for planning or carrying out UN advocacy work. States employ a range of tactics from official and unofficial bureaucratic attempts at blocking the access of human rights defenders, to outright intimidation and harassment both in-country and at the UN itself. Many unrepresented diplomats and other human rights defenders weather these attempts to silence them, and carry on, but against the odds and with varying degrees of risk to their and their family’s safety.

Our findings also expose that while much action has been taken on the part of UN entities to provide a structure of support for human rights defenders being challenged as a result of their UN advocacy, there are still large gaps in publicity of these services and follow up – with the majority of human rights defenders unaware of the support that is already available to them.

With these findings in mind, we make recommendations to UN entities – including UN treaty bodies, OHCHR, UN Special Procedures, UN Human Rights Council officials, and UN member states – which focus on creating a safer space for unrepresented diplomats to operate in, with stronger, better-publicised protection mechanisms in place. Points of contact within the UN should be identified and publicised for use in the event of an incident, and clear channels of communication should be established for following up after an incident. Transparency is key – if UN security officers remove an individual they should provide that individual with a clear written explanation as to why, and the means to discuss and potentially appeal the decision. Incidents that occur should be centrally recorded so that patterns, trends and potential vulnerabilities can be identified and acted upon. The NGO Committee should be a site of support and community, rather than blockage and conflict. And UN member states need to be actively and vocally supporting unrepresented diplomats’ right to freedom of expression at the UN.

Lest it be forgotten, human rights defenders, and the unrepresented diplomats amongst them – the ones who exist in the spaces between states – are the lifeblood of the UN human rights mechanisms. It is only through supporting them and their work that we will forge a just and safe world.

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<sup>140</sup> ISHR, ‘According space to civil society is not optional, says UN High Commissioner’, 11 June 2018: <http://www.ishr.ch/news/ngo-access-according-space-civil-society-not-optional-says-un-high-commissioner>

<sup>141</sup> Amnesty International, ‘Human rights defender under threat – a shrinking space for civil society’, 16 May, 2017, <https://www.amnesty.org/en/documents/act30/6011/2017/en/>

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## 6. RECOMMENDATIONS

- The processes of deciding ECOSOC status should be reformed and there should be clear guidance that NGO applications are to be assessed objectively on the criteria set out in ECOSOC resolution 1996/31.
- NGOs found to be closely related to state governments should be given a warning and then have their ECOSOC status investigated and, if necessary, revoked.
- Individuals acting in a harassing or intimidating manner while representing NGOs, press, or other entities should be investigated by security and, if necessary, barred from the UN.
- OHCHR should work with UN mechanisms to create safe spaces for defenders to give testimony during treaty body reviews and the Universal Periodic Review, which are free from government-affiliated organisations posing as NGOs and other possible state agents.
- Protocols should be devised by UN human rights mechanisms as to the actions that will be taken against states or other actors that carry out threats, harassment and intimidation before, during or after the process of the mechanism.
- If reprisals occur, the UN human rights mechanisms concerned should publicly denounce the incident and take appropriate action, based on the devised protocol.
- UN human rights mechanisms should publicise the measures they will take against state or other actors found to be intimidating or harassing human rights defenders before, during or after the proceedings of the mechanisms, by way of deterrent.
- OHCHR should more widely publicise the support and reporting mechanisms established for incidents and reprisals to NGOs, e.g. including posters within the Palais des Nations building, and/or an email sent out as part of the accreditation and registration procedure.
- OHCHR should train staff on how to respond to reports of incidents and reprisals, as per the devised protocol, and follow up with defenders who have reported such incidents. OHCHR staff should maintain contact with defenders once they return to their home country and follow up in case of reprisals.
- Incidents that occur should be centrally recorded by OHCHR so that patterns, trends and potential vulnerabilities can be identified and acted upon.



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