

To:

OHCHR Petitions Unit

Chairs of UN Treaty Bodies & focal points on reprisals

Cc:

UN High Commissioner for Human Rights

Assistant Secretary General for Human Rights

27 June 2017

Re. Treaty Body protection measures in cases of reprisals and intimidations against Treaty Body petitioners

Dear OHCHR Petitions Unit & Treaty Body chairs,

The purpose of this letter is to encourage Treaty Bodies to proactively request that State parties adopt protection measures in cases of reprisals against Treaty Body petitioners, and seek follow-up to those measures by OHCHR field presences.

In September 2016, the UN Committee against Torture (CAT) took the unprecedented step of [requesting protection measures](#)¹ as a consequence of ongoing reprisals and intimidations faced by the complainants, their family members and their advocates in a case of arbitrary detention and torture of four individuals by Mexican soldiers (Ramirez and others v. Mexico). The victims had submitted an individual complaint to the CAT in March 2012, and CAT adopted a decision finding violations of several provisions of the Convention Against Torture in August 2015 (CAT/C/55/D/500/2012). The CAT had already requested Mexico to adopt interim measures in October 2013 to provide the appropriate specialized medical care and support required by one of the victims for injuries he sustained to his ears as a result of torture, which Mexico did not comply with. According to the latest available information from the CAT (CAT/C/57/3; 25 May 2016), Mexico has yet to comply with the remedies requested by CAT in its decision on this case, notably to investigate and prosecute those responsible thereby contributing to the pervasive impunity for torture crimes in Mexico.

We understand that the above-mentioned case constitutes the first of its kind where a protection measure has been requested by a Treaty Body concerning reprisals and intimidations faced by petitioners after the adoption of a Committee decision on a communication. This important development constitutes a direct application of paragraph 19 ('Protection measures') of the San José Guidelines on intimidation or reprisals (HRI/MC/2015/6). This case is emblematic of many State parties' unwillingness or inability to comply with Treaty Bodies' views and requests. Nevertheless, it constitutes a major development, which other Treaty Bodies and the OHCHR Petitions Unit may want to draw inspiration from. It is understood that the OHCHR office in Mexico is closely monitoring the situation of victims in the Ramirez and others v. Mexico communication, another good practice that ought to be replicated.

The risk and reality of threats and other forms of reprisals against individuals and institutions submitting complaints to Treaty Bodies cannot be underestimated. Against this background, the undersigned recommend the following.

¹ http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MEX/INT_CAT_JUR_MEX_59_25952_S.pdf

To the Chairs of Treaty Bodies:

- Encourage the two Treaty Bodies who have not formally and fully adopted the San José Guidelines (CEDAW & CESCR) to do so without further delay.
- Encourage Treaty Bodies working groups or rapporteurs on communications to regularly discuss cases of intimidation and reprisals with the OHCHR Petitions Unit. Such discussion should include enquiring about the personal situation of petitioners, their family members and representatives, with a view to taking appropriate measures, including protection measures, when required.
- Promptly react to allegations of human rights violation, threats or intimidation as a consequence of communications to the Treaty Body by requesting the State party to take all appropriate measures urgently, in compliance with relevant treaty provisions and the San José Guidelines, notably paragraph 19.
- Request the concerned States to submit written explanations and clarifications on how the protection measures have been implemented.
- Encourage making public statements when State parties fail to comply with such measures, as provided by relevant Rules of Procedures.

To the OHCHR Petitions Unit:

- Proactively monitor the situation of petitioners, their family members and representatives alleging or facing a risk of reprisals related to the submission of their complaint, with a view to preventing and/or mitigating reprisals related to their complaint.
- Systematically seek formal Treaty Body responses to cases of reprisals, including the adoption of protection measures, in cases of reprisals against petitioners, their family members and representatives.
- Make relevant information public, notably requests for protection measures, provided consent is obtained from the petitioner or their representative.
- Wherever possible and relevant, engage OHCHR field presences to monitor the personal situation of petitioners, their family members and representatives.

Signed by:

Advocates for Human Rights

Amnesty International

Centre for Civil and Political Rights

Center for Constitutional Rights

Child Rights Connect

European Roma Rights Centre

Forum Asia

Global Initiative for Economic, Social and Cultural Rights

Human Rights in China

Human Rights Watch

International Commission of Jurists

International Disability Alliance

International Movement Against All Forms of Discrimination and Racism

International Service for Human Rights (ISHR)

Mental Disability Advocacy Centre

TRIAL International

Women's link worldwide

World Organisation against Torture (OMCT)