

Accountability (A)

Strengthening the rule of law and accountability for human rights violations



JUSTICE SYSTEMS, TRIALS AND PRISON CONDITIONS



Trials
708 court cases monitored



Places of detention
2,274 visits undertaken



Detainees
4,312 persons released (upon action from UN Human Rights, including 211 women, 4,008 men and 93 children)



Monitoring missions
11,929 human rights situations documented (41% in-person and 59% remotely)

NON-JUDICIAL ACCOUNTABILITY MECHANISMS



Human rights mechanisms
92 opinions adopted by the Working Group on Arbitrary Detention (55 urgent appeals, 139 allegation letters and 11 other letters initiated or joined)

313 cases clarified by the Working Group on Enforced or Involuntary Disappearances (698 new cases transmitted to States, including 78 under the urgent action procedure)

88 communications sent by the Working Group on business and human rights (including 79 joint allegation letters, 6 joint urgent appeals and 3 other joint letters)



Paris Principles-compliant national human rights institutions (NHRIs)
61 countries with established/enhanced NHRIs (3 new institutions accredited as NHRIs in Côte d'Ivoire, Estonia and Uzbekistan)

Court ruling in Kenya: A milestone in environmental justice

In a positive development for environmental justice, the Owino Uhuru settlement in Kenya won the equivalent of US\$13 million in compensation for the devastating impacts on the environment and the health of a community caused by lead poisoning from a nearby smelter that recycled batteries.

On 16 July, the Land and Environment Court in Mombasa awarded compensation to the residents and ruled that the community's rights to life, a healthy environment, the highest attainable standard of health and clean and safe water had been contravened and ordered the Government of Kenya and two companies to pay compensation.

The ruling came four years after the Centre for Justice, Governance and Environmental Action (CJGEA) filed a class action lawsuit on behalf of the 3,000 residents living in Owino Uhuru. It also came ahead of the tenth anniversary of the landmark Kenyan Constitution and Bill of Rights, which specifically uphold the right to a clean and healthy environment and provide for the legal enforcement of environmental rights.

“We were very excited,” said Phyllis Omido, founder and Head of the CJGEA. “Because we were suing the Government and corporations, we were not sure...if the judge would be bold and fearless enough to pronounce justice.”

A DECADE OF CAMPAIGNING FOR JUSTICE

When her baby son fell seriously ill with lead poisoning, Phyllis Omido, a former employee of the smelter, began a campaign to close the plant. She founded the CJGEA, an environmental grassroots group that advocates for the rights of communities poisoned by toxic chemicals from Kenya's extractive industries. For nearly a decade, Phyllis and other community activists have fought against the presence and effects of lead in the community.

UN Human Rights heard of her fight and offered to help as part of its mandate to support implementation of the United Nations Guiding Principles on Business and Human Rights and protect civic space. In addition, UN Human Rights worked with Kenyan authorities to ensure the protection of members of the CJGEA and the settlement when they were threatened.

“UN Human Rights is the only international partner that directly funded the litigation,” said Phyllis. “They also assisted us in monitoring and documenting the case. They stood with us when witnesses were harassed, intimidated and afraid, even sending a team into the community. Without UN Human Rights, we would have given up, many times.”

Moreover, Phyllis' work on environmental justice led her to create the Land and Environment Defenders Network, which is also supported by UN Human Rights. Its advocacy has led the Government to close 10 toxic waste smelters over the last five years.

“Environmental human rights issues are on the rise, and as long as that is the case, I have work to do,” Phyllis said. “We still have an unjust society, especially regarding environmental governance and human rights.”



Phyllis Omido has been the driving force behind the quest for justice for the people of the Owino Uhuru community. © OHCHR/A. Fassio

Highlights of pillar results

Accountability (A)

The legal protection of all human rights requires various actors to fully assume their obligations to respect, protect and fulfil human rights. This includes States as the primary duty-bearers as well as private actors, armed groups, other non-State actors and individuals who, under certain circumstances, can be held criminally accountable for their actions. To

enhance accountability and promote peaceful, prosperous and inclusive societies, UN Human Rights helps to build human rights-compliant institutional frameworks. It supports the adoption of regulations that domesticate international human rights law and it promotes policies and practices that guard against transgressions (i.e., misuse of criminal law,

arbitrary detention, torture, gender-based violence and censorship). UN Human Rights also supports the establishment of independent, impartial and fair courts and non-judicial mechanisms that address claims and grant remedies, including commissions of inquiry, fact-finding missions and other investigations.

PILLAR RESULTS / SHIFTS / SDGs

AI – ADMINISTRATION OF JUSTICE and LAW ENFORCEMENT

Laws, policies and practices increasingly address, prevent and reduce human rights violations in the context of law enforcement and justice systems.




RESULTS / SPOTLIGHTS



Persistent and coordinated advocacy efforts undertaken by the Human Rights Monitoring Mission in Ukraine (HRMMU) resulted in progress made in enhancing **accountability for serious violations of international human rights law and international humanitarian law**. For instance, the Constitutional Court of Ukraine repealed article 375 of the Criminal Code, which infringed on the independence of judges. The Cassation Criminal Court of the Supreme Court modified its practices to help ascertain that plea bargains are voluntary. The Office of the Prosecutor General made a commitment to tackle warrantless arrests in relation to ‘continuous crimes’ and to cease pressing terrorism charges against individuals who are linked with armed groups of the self-proclaimed ‘republics’ in eastern Ukraine. At the same time, a draft law was developed to amend the in absentia prosecution procedure, which is expected to facilitate prosecution of those responsible for serious human rights and international humanitarian law violations. Furthermore, the State judicial administration annulled requirements linked to digital signatures, improving access to online court hearings in the context of COVID-19. In its emblematic judgment on the right to liberty pending trial, the European Court of Human Rights referred to the HRMMU’s findings. It is anticipated that the judgment will change national practices on arrests and pretrial detention.

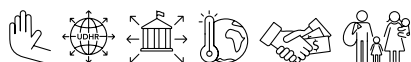
 Sustained advocacy efforts undertaken by UN Human Rights in **Libya** contributed to the establishment, in Benghazi and Tripoli, of **specialized courts to address violence against women and children**. Another major development was the appointment, on 11 October, of five women judges (out of a total of six judges) to the newly established courts.

In partnership with the Ministry of Justice, UN Human Rights carried out an assessment of the **free legal aid** system in **Belarus**, identifying gaps and formulating recommendations, which informed the development of a road map to improve legal aid provision. During the year, the HRA, in close coordination with the Resident Coordinator, worked with bar associations, lawyers and two CSOs to provide legal consultation services to 1,543 persons (1,054 women, 489 men), including persons with disabilities and survivors of domestic violence.

 In **El Salvador**, UN Human Rights supported a network of national and international CSOs working on **sexual and reproductive rights** to present a habeas corpus before the Constitutional Chamber of the Supreme Court of Justice in favour of 14 women imprisoned for obstetric emergencies. In this context, the Office also provided technical advice to the Procuraduría para la Defensa de los Derechos Humanos (PDDH, the NHRI), which submitted an amicus curiae brief in relation to these women to support the adoption of precautionary measures in their favour, including in relation to health and hygiene conditions in the context of COVID-19. As a result, the Constitutional Chamber ordered a review of these cases and an improvement of sanitary conditions in the prisons. Following this decision, one of the women was granted early parole and another woman's sentence was commuted.

A2 – ACCESS TO JUSTICE and REMEDIES


Strengthened national mechanisms provide redress to victims and accountability for human rights violations, including for economic and social rights.



UN Human Rights engaged with Member States, UN partners and CSOs to promote accountability for human rights violations. For instance, with support from the Permanent Mission of Libya, the Office and UNSMIL co-organized briefings and consultations on Libya for Member States of the Human Rights Council on the need to ensure accountability for violations of international human rights law and international humanitarian law, including war crimes. This contributed to the **establishment**, in June, of a **Fact-Finding Mission on Libya**.

UN Human Rights made significant progress towards ensuring accountability for human rights violations in the **Democratic People's Republic of Korea (DPRK)**, including through the upgrade of the **central information and evidence repository** to the latest e-discovery software. Approximately 3,830 distinct files were added to the repository, such as interviews, reports, petition letters, satellite imagery, maps, court documents, videos and audio recordings. Related open source materials from the media, governments and academia were also uploaded. All relevant staff received online training on the use of the repository.

Throughout 2020, UN Human Rights engaged extensively with EU institutions to promote the application of an HRBA to the **new EU rule of law mechanism**. The Office advocated for making linkages between human rights, democracy and the rule of law, with a focus on defending civil society space. In December, an agreement was reached on rule of law budget conditionality, linking respect for the rule of law and disbursements of EU funds to member states.


 In **Honduras**, UN Human Rights increased its support to the strategic litigation efforts of CSOs in cases related to the **rights of women** and **LGBTI** persons. The restrictive legislation on sexual and reproductive rights represents a major gap in the State's fulfilment of its international obligations. For instance, in a case where a voluntary termination of pregnancy was criminalized, the Office's intervention was key to ensuring the integration of international human rights norms and standards into the sentence, which set a precedent for future jurisprudence in this area.

In **Kenya**, UN Human Rights provided technical and financial support to the Tripartite Task Force (TTF), composed of the Office of the Director of Public Prosecutions, the Independent Policing Oversight Authority and the National Police Service. The TTF developed **SOPs** regarding the **investigation and prosecution of serious human rights violations committed by police officers**. Investigators and prosecutors worked together to investigate allegations of serious human rights violations, such as killings, shootings, robbery, harassment, sexual assault and inhuman treatment, during the enforcement of COVID-19 curfew regulations. As a result, a number of officers were charged with committing serious human rights violations.


A3 – Investigation of GENDER-related CRIMES

Justice systems investigate and prosecute gender-related crimes more effectively.



 As a co-lead entity of the **United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict** (TOE), UN Human Rights supported national authorities in the investigation and prosecution of sexual violence in conflict and post-conflict settings. In the Central African Republic, the TOE collaborated with MINUSCA and UNDP. As a result, the Joint Rapid Response Unit to Prevent Sexual Violence against Women and Children (UMIRR) finalized the judicial investigation into the crimes that occurred in Kaga Bandoro, in August 2019, including CRSV, which involved 264 victims. In January 2021, the judicial file was sent for review to the Office of the Prosecutor of the Kaga Bandoro High Court. In the Democratic Republic of the Congo, the TOE collaborated with the Joint Human Rights Office of MONUSCO, the UNCT and CSOs and worked with Congolese counterparts to implement a case prioritization strategy for serious international crimes, including sexual violence. The TOE also provided technical assistance in relation to the investigation, prosecution and trial of Ntabo Ntaberi Sheka and his co-conspirators for crimes committed between 2010 and 2017, including the mass rape of 387 civilians. These efforts contributed to the **groundbreaking decision of the Cour Militaire Opérationnelle of North Kivu**, on 23 November, to sentence Ntabo Ntaberi Sheka to life imprisonment after he was convicted of rape, sexual slavery and the recruitment of children. In Guinea, UN Human Rights and the TOE collaborated to support awareness-raising efforts regarding the importance of accountability for the events of 28 September 2009, during which at least 109 women and girls were victims of sexual violence. This resulted in a renewed commitment by senior officials to ensure accountability and elaborate draft guidelines to convene trials for these events.

 In **South Sudan**, UN Human Rights reported and verified 146 incidents of CRSV affecting 218 survivors. The Office and its partners regularly raised cases of CRSV with parties to the conflict. Advocacy undertaken with the Chief of the South Sudan People's Defence Forces (SSPDF) and the Minister of Defence, in May, regarding concerns over the continued use of sexual violence by the SSPDF in the Yei-Lasu area, was instrumental in the deployment of the District Court Martial to the area. In September, the **District Court Martial** handed down a **landmark ruling** in which 26 suspects were convicted and received sentences ranging from seven to 14 years in prison for the rape of six women and five girls. UN Human Rights monitored the two-month long trial and worked with CSOs to support and accompany the victims and their families before, during and after the trial.

 In **Chad**, UN Human Rights conducted six field monitoring missions in the provinces of Ouaddai; Lake Chad, Moyen-Chari, Mandoul, Logone Occidental and Logone Oriental. The missions monitored specific **violations related to intercommunity conflicts, gender-based violence and child exploitation** and the conditions in prisons and other places of detention. During the missions, UN Human Rights gathered information that formed the basis for its subsequent advocacy with authorities. As a result, five human rights violations were redressed related to the arbitrary arrest of journalists, HRDs, CSO leaders and alleged members of Boko Haram and the ill-treatment of detainees.

A5 – UN ACTION on RULE of LAW

UN efforts with regard to the rule of law, justice, counter-terrorism and accountability put human rights at the core.



Through its participation in the meetings of the Human Rights, Rule of Law and Victims of Terrorism Working Group and the Global Compact Human Rights Working Group, UN Human Rights highlighted the importance of integrating human rights into **counter-terrorism responses and responses to terrorist incidents and crisis situations**. The Office provided comments on the national counter-terrorism strategies of **Iraq** and **Tajikistan**, the Watchlisting Guidance Manual Initiative and the human rights aspects of the use of Unmanned Aircraft Systems. The Global Compact Human Rights Working Group finalized the **Basic Human Rights Reference Guide (BHRRG): Proscription of Organizations in the Context of Countering Terrorism**. The BHRRG provides guidance to States on the parameters and human rights implications of identifying organizations as terrorist organizations. In cooperation with the Office of Counter-Terrorism, UN Human Rights delivered training of trainers sessions to law enforcement officers on counter-terrorism and human rights in Cameroon, Iraq, Mali and Nigeria.

UN Human Rights provided technical advice to ensure that human rights are mainstreamed into the **Global Framework for United Nations Support on Syria, Iraq and Third Country National Returnees** (Global Framework). This resulted in the integration of human rights into Global Framework processes (i.e., joint scoping exercises, risk management, technical guidance and advice related to programme design and implementation, monitoring and fund allocations from the Global Framework pooled funds). The support from UN Human Rights also included the provision of human rights and gender expertise to facilitate the implementation of the Global Framework.

In **Myanmar**, UN Human Rights supported the UNCT in enhancing its strategic approach to prevention, which resulted in the development and adoption of a **UNCT Human Rights Strategy** and implementation plan, with a focus on Leaving No One Behind and ensuring the holistic implementation of the UNCT's human rights agenda.

UN Human Rights developed and adapted a **digital image verification tool**, which was initiated in 2019, and deployed it as an internal service within the organization. This enabled staff and accountability mechanisms to test confidential digital artefacts for evidence of tampering and have a higher degree of confidence in the digital evidence used to support casework, human rights analysis and reporting.

Enhancing accountability through the participation of civil society in Uzbekistan

Shukhrat Ganiev, a lawyer by training, became a human rights activist because he wanted to help vulnerable persons in his neighborhood of Bukhara. Many people around him could not understand why he would leave a stable job and tranquil life to assist complete strangers. Shukhrat felt that it was important to bridge the gap between law and law enforcement.

For this reason, he became the Head of the Humanitarian Legal Center, a non-registered CSO in Uzbekistan. “The majority of people perceive your actions as a human rights defender as their last hope. And sometimes it is important for them when you are just beside them during the night searches,” explained Shukhrat.

“During the last few years, a lot has changed for the better for human rights defenders in Uzbekistan.” Until recently, Shukhrat could not have imagined being able to visit places of detention. At the end of 2019, UN Human Rights selected him to participate in a training programme that was co-organized with the Organization for Security and Co-operation in Europe (OSCE), Penal

Reform International and the Office of the Ombudsperson. Together with a group of civil society members and staff from the Ombudsperson’s Office, Shukhrat enhanced his capacities to monitor the human rights situation in detention facilities, including penitentiary institutions.

In the summer of 2020, joint advocacy efforts by UN Human Rights and the Resident Coordinator’s Office began to yield results. The Ombudsperson’s Office agreed to include independent civil society experts in its torture prevention monitoring activities.

Three national experts were trained and supported by UN Human Rights, including Shukhrat, and participated in monitoring visits to places of detention and mandatory COVID-19 quarantine facilities. “I could interview prisoners of my own choice, regardless of whether they were convicted on the basis of political or religious charges,” noted Shukhrat.

The work of the monitors was facilitated by the use of sample questionnaires that were developed by UN Human Rights to

support the monitoring activities. The Office also organized debriefing sessions with the Ombudsperson’s Office and civil society experts to discuss their findings, agree on follow-up activities and jointly formulate recommendations, some of which were included in the reports of the Ombudsperson’s Office to the Parliament. The debriefings provided forward-looking recommendations, including on the institutionalization of the participation of civic activists in the work of Uzbekistan’s National Preventive Mechanism.

In addition, Shukhrat and his colleagues provided legal assistance to vulnerable individuals. By the end of 2020, they had won the cases of five young men who had been fully exonerated by the court during the appeals process. Shukhrat then realized how much confidence he had gained during the previous year that “Recent changes are irreversible in my country,” he said. “There is the political will, the strategy and the team. The main thing is not to stop and to move forward.”

Shukhrat Ganiev at a training (left) and during a monitoring visit to the medical unit of a penal colony (right). © Photo courtesy of Shukhrat Ganiev (left) and OHCHR (right)



The future of digital evidence: Fostering accountability for human rights violations

The Berkeley Protocol on Digital Open Source Investigations was launched at a special event to commemorate the seventy-fifth anniversary of the Nuremberg trials. Several years in the making, the Protocol is a new tool that was jointly produced by UN Human Rights and the Human Rights Center at the University of California, Berkeley, to strengthen the use of video and other digital information as evidence in human rights, war crimes and international criminal cases.

The event, which took place on 1 December, recalled the first use of film as evidence in an international trial and discussed the future of digital evidence and visual imagery in court cases to foster accountability. “Technology can help us see the distant, the obscured and the unimaginable – and serve as concrete proof of violations of human rights and international law,” said Michelle Bachelet, High Commissioner for Human Rights, in her opening remarks during the event.

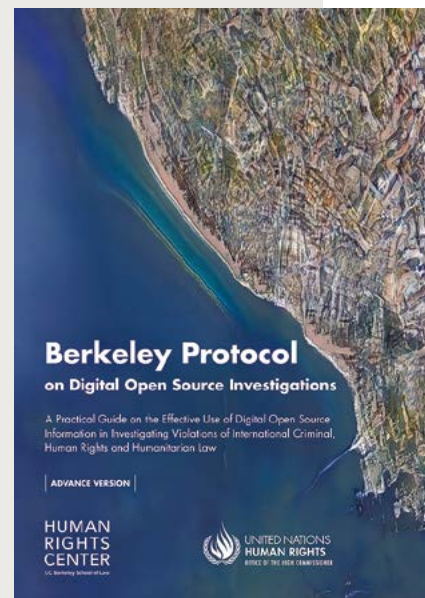
The Berkeley Protocol was developed by a group of experts with diverse professional perspectives, legal and cultural backgrounds and was subjected to a rigorous process of review and validation. It establishes common global standards for using public, digital content, including photographs and film, as evidence and for conducting online research regarding alleged violations of international criminal, international human rights law and international humanitarian law, thereby contributing to a new era in accountability for such violations.

The Protocol provides guidance on methodologies and procedures for gathering, analysing and preserving digital information in a professional, legal and ethical manner. It outlines measures that online investigators can and should take to protect their digital, physical and psychosocial safety and that of others who risk their well-being to document war crimes and human rights violations, including witnesses, victims and first responders, as well as citizens, activists and journalists.

In an era of widespread misinformation and disinformation, the Protocol has gained more importance as it sets out principles and methods behind verification and authentication analyses that practitioners and laypersons can comprehend.

First and foremost, the Protocol requires investigators to be bound by fundamental ethical, professional, methodological and legal principles to ensure that information is collected in line with human rights standards. That information can then be employed for accountability purposes when conditions allow.

In an increasingly digitalized world, UN Human Rights and the Human Rights Center hope that the Berkeley Protocol will help online investigators, whether they are legal professionals, human rights defenders, journalists or others, to develop and implement effective procedures for documenting and verifying violations of international law and to make the best use of digital open source information so that those who are responsible for such violations can be brought to justice.



Cover page of the Berkeley Protocol. © OHCHR