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Joint Statement by independent United Nations human rights experts* on human rights responsibilities of armed non-State actors

GENEVA (25 February 2021) – A group of independent United Nations human rights experts* issued the following joint statement, in order to highlight the far-reaching negative human rights impacts of armed non-State actors¹ on rights' holders and human rights defenders.

In view of the pervasiveness of armed non-State actors' involvement worldwide – during both armed conflict and other situations of violence – we consider it imperative that existing international legal protections be effectively implemented to safeguard the human rights of individuals and groups, irrespective of the status or character of the perpetrator(s). In accordance with the idea that human rights protection devolves with territory (inalienability of human rights),² victims must be in a position to seek redress for violations or abuses of their rights regardless of the actor at the origin of their grievance.

Common practice of various organs of the United Nations, such as the Security Council, the General Assembly and the Human Rights Council, contributes to gradual closing of the above-mentioned gap in human rights protection.³ Such practice acknowledges that, **at a minimum**, armed non-State actors exercising either government-like functions or *de facto* control over territory and population must respect and protect the human rights of individuals and groups. Some special procedures and investigative mechanisms of the Human Rights Council have argued that armed groups have human rights obligations, for instance derived from their capacities⁴, and they have detailed the conditions under which these obligations may apply and their extent⁵. Others have expressed concern at abuses of human rights by armed non-State actors, and directly called on these actors to cease such conduct⁶, such as the recruitment of child soldiers⁷ and sexual violence⁸. Yet others have noted that the presence of armed non-State actors present unique challenges for business enterprises, which are expected to exercise heightened human rights due diligence in conflict-affected contexts in order to meet the business responsibility to respect human rights in line with the UN Guiding Principles on Business and Human Rights.

However, much remains to be accomplished in order to ensure that human rights of individuals and groups are respected, protected and fulfilled, irrespective of the character of the perpetrator(s). We thus strongly call on States to support initiatives/processes/work on this crucial issue, including processes seeking to identify ways of engaging with armed non-State actors, to strengthen accountability and address impunity.

In particular, we make the following recommendations:

States should:

1. in any territory under their jurisdiction⁹, respect their obligation to monitor and prevent violations of human rights committed by armed non-State actors or violations by armed non-State actors empowered to exercise governmental authority or acting with Government acquiescence;
2. properly investigate all allegations of human rights violations by armed non-State actors, prosecute and punish perpetrators, and ensure adequate reparation and redress to victims, in full compliance international human rights law and standards;

3. provide appropriate redress, reparations and other assistance to victims, in cases of both direct and indirect responsibility for abuses committed by armed non-State actors, in particular in cases where armed non-state actors are unable or unwilling to meet their responsibilities in this regard.
4. contribute to and/or support the clarification and codification of human rights responsibilities of armed non-State actors;
5. evaluate current mechanisms for holding armed non-State actors accountable and identify approaches to effectively address protection and justice gaps and vacuums;
6. encourage the adoption by armed non-State actors of policies, practices and codes of conduct for human rights protection;
7. develop guidelines for human rights-based engagement with armed non-State actors.
8. adopt a gender-sensitive approach and ensure that these recommendations are implemented taking into account the heightened risk of abuse against women and children, including for sexual and gender-based crimes, and child soldier recruitment;
9. ensure that the experiences of groups with specific vulnerabilities and individuals within these groups, such as migrants, minorities, LGBTI, older persons and persons with disabilities¹⁰, among others, are fully integrated in the implementation of these recommendations.

Armed non-State actors should:

1. expressly commit and signify their willingness to respect, protect and fulfil human rights;
2. implement their human rights responsibilities in their codes of conduct or other internal documents;
3. ensure proper and genuine accountability within their ranks and organizations for abuses of human rights.

Other stakeholders¹¹ should:

1. engage directly and concretely with armed non-state actors with the aim to encourage respect for human rights;
2. if acting as permanent monitoring and reporting mechanisms, ensure that they effectively and transparently assess and report on the compliance of armed non-State actors with human rights;
3. encourage and support armed non-State actors in adopting and adhering to international human rights standards.

We, United Nations human rights experts, will continue to integrate and recommend the integration of the monitoring and implementation of the human rights responsibilities of armed non-State actors in the exercise of our mandates.

Nothing in this joint statement shall be construed as limiting the human rights obligations of States or as affecting the legal status of armed non-State actors under domestic or international law. Nothing in the present statement shall be understood as calling into question the applicability, and binding character, of rules of international humanitarian law to all parties to armed conflicts – whether they are a State or non-State actor.

*This statement has been made jointly by:

Mr. Nils Melzer, [Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#); **Ms. Agnes Callamard**, [Special Rapporteur on extrajudicial, summary or arbitrary executions](#); **Mr. S. Michael Lynk**, [Special Rapporteur on the Situation of Human Rights in the Palestinian Territory occupied since 1967](#); **Ms. Isha Dyfan**, [Independent Expert on the situation of human rights in Somalia](#); **Mr. David R. Boyd**, [Special Rapporteur on Human Rights and the Environment](#)**Mr. Tomoya Obokata**, [Special Rapporteur on contemporary forms of slavery, including its causes and consequences](#); **Mr. Thomas Andrews**, [Special Rapporteur on the situation of human rights in Myanmar](#); **Ms. Mama Fatima Singhateh**, [Special Rapporteur on the sale and sexual exploitation of children](#); **Mr. Pedro Arrojo Agudo**, [Special Rapporteur on the human rights to safe drinking water and sanitation](#); **Ms. Mary Lawlor**, [Special Rapporteur on the situation of human rights defenders](#); **Mr. Livingstone Sewanyana**, [Independent Expert on the promotion of a democratic and equitable international order](#); **Mr. Michael Fakhri**, [Special Rapporteur on Right to Food](#); **Ms. Jelena Aparac** (Chair-Rapporteur), **Ms. Lilian Bobea**, **Mr. Chris Kwaja**, **Mr. Ravindran Daniel**, and **Ms. SORCHA MacLeod**, [Working Group on the use of mercenaries](#); **Ms. Irene Khan**, [Special Rapporteur on the promotion and protection of freedom of opinion and expression](#); **Mr. Javaid Rehman**, [Special Rapporteur on the situation of human rights in the Islamic Republic of Iran](#); **Ms. Cecilia Jimenez-**

Damary, Special Rapporteur on the human rights of internally displaced persons; **Mr. Balakrishnan Rajagopal**, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living; **Mr. Dante Pesce** (Chair), **Mr. Surya Deva** (Vice-Chair), **Ms. Elżbieta Karska**, **Mr. Githu Muigai**, **Ms. Anita Ramasastry**, Working Group on human rights and transnational corporations and other business enterprises; **Mr. Gerard Quinn**, Special Rapporteur on the rights of persons with disabilities; **Mr. Fernand de Varennes**, Special Rapporteur on minority issues; **Ms. Dubravka Simonovic**, Special Rapporteur on violence against women, its causes and consequences; **Mr. Ahmed Shaheed**, Special Rapporteur on freedom of religion or belief; **Ms. Tlaleng Mofokeng**, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; **Mr. Diego García-Sayán**, Special Rapporteur on the independence of judges and lawyers; **Mr. Clement Nyaletsossi Voule**, Special Rapporteur on the right to peaceful assembly and association; **Mr. Felipe González Morales**, Special Rapporteur on the human rights of migrants; **Ms. Leigh Toomey** (Chair-Rapporteur), **Ms. Elina Steinerte** (Vice-Chair), **Ms. Miriam Estrada-Castillo**, **Mr. Mumba Malila** and **Mr. Seong-Phil Hong**, Working Group on Arbitrary Detention, and **Ms. Elizabeth Broderick** (Chair), **Ms. Melissa Upreti** (Vice Chair), **Ms. Dorothy Estrada Tanck**, **Ms. Ivana Radačić** and **Ms. Meskerem Geset Techane**, Working Group on discrimination against women and girls.

1/ According to the UN working definition, non-State armed groups are “Groups that have the potential to employ arms in the use of force to achieve political, ideological or economic objectives; are not within the formal military structures of States, State-alliances or intergovernmental organizations; and are not under the control of the State(s) in which they operate.” G. McHugh, M. Bessler, *Humanitarian negotiations with armed groups: A manual for practitioners*, United Nations: New York, 2006, p. 87.

2/ Human Rights Committee, General Comment No. 26, CCPR/C/21/Rev.1/Add.8/Rev.1, 8 December 1997, para 4.

3/ Per the findings of Harvard Law School’s Program on International Law and Armed Conflict (PILAC), between 1948 and 2017, 125 resolutions of the Security Council, 65 resolutions of the General Assembly as well as more than 50 presidential statements of the Security Council dealt with the human rights responsibilities of armed non-State actors. See PILAC, *Armed non-State Actors and International Human Rights Law: An Analysis of the Practice of the U.N. Security Council and U.N. General Assembly*, Briefing Report with Annexes, June 2017, available at: <http://blogs.harvard.edu/pilac/files/2017/06/HLS-PILAC%E2%80%9494ANSAs-and-IHRL%E2%80%94June-2017.pdf>. In addition, the Geneva Academy of International Humanitarian Law and Human Rights (Geneva Academy) identified 33 relevant resolutions of the Human Rights Council adopted between 2008 and 2015. See Geneva Academy, *Human Rights Obligations of Armed non-State Actors: an Exploration of the Practice of the UN Human Rights Council*, December 2016, annex, available at https://www.geneva-academy.ch/joomlatools-files/docman-files/InBrief7_web.pdf.

4/ See Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on armed non-State actors: the protection of the right to life, A/HRC/38/44, 5 June 2018 where she argues that armed non-State actors can be accommodated as subjects of international human rights law, without treating them akin to States, and that their human rights obligations are derived from the nature of their capacity.

5/ Report of the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment, A/HRC/34/54, 17 February 2017, para 44-48; Report of the Commission on Human Rights in South Sudan, A/HRC/40/69, 21 February 2019, para 96; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Sri Lanka, E/CN.4/2006/53/Add.5, 27 March 2006, para 25-27; See also Committee on the Right of the Child

6/ See, for instance, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his visit to Ukraine, A/HRC/40/59/Add.3, 17 January 2019, para 122; Joint Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Representative of the Secretary-General on human rights of internally displaced persons and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living on their mission to Lebanon and Israel, A/HRC/2/7, 2 October 2006, para 19; Report of the Independent Expert on the situation of human rights in Mali, A/HRC/40/77, 21

January 2019, para 34-38; and

[7/](#) UNSC Resolution 1261 (1999). Furthermore, ILO Convention No 182, which designated children's involvement in armed conflict as the 'worst form of child labour.'

[8/](#) UNSC Resolution 1325 (2000)

[9/](#) Report of the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment, A/70/303 (2015).

[10/](#) UNSC Resolution 2475 (2019) on persons with disabilities in armed conflict.

[11/](#) E.g. Intergovernmental entities; such as UN Experts, UN Commissions of Enquiry, other UN agencies, and non-governmental entities such as non-governmental organizations, academics, corporations; national human rights institutions, and national monitoring mechanisms established in accordance with international human rights treaties.

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