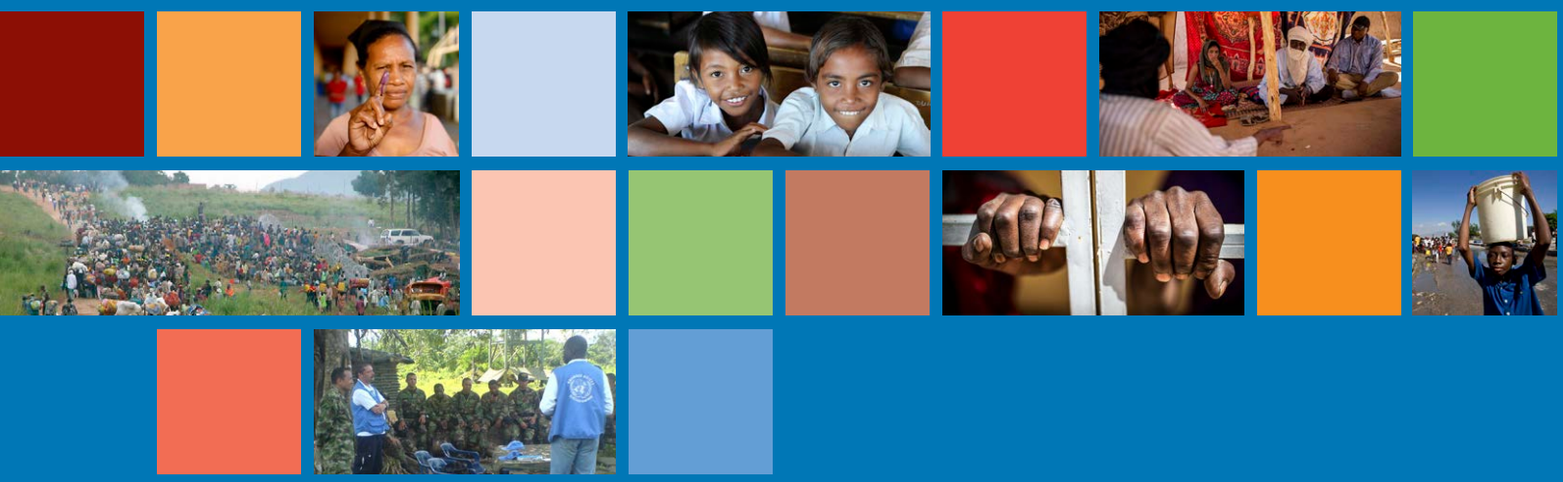
MANUAL ON human rights MONITORING

Chapter 01

DEFINITIONS AND THE HUMAN RIGHTS MONITORING CYCLE



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HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

DEFINITIONS AND THE HUMAN RIGHTS MONITORING CYCLE






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A. Key concepts

- Human rights are the rights inherent to human beings, many of which are codified in international human rights law.
- States and other duty bearers have obligations to respect, protect and fulfil human rights. The failure to perform these obligations constitutes a human rights violation.
- Human rights monitoring comprises a continuum of activities, from the active collection of information to the analysis, verification and use of information to assess and address human rights concerns. This is referred to as the monitoring cycle.
- "Human rights observation", "fact-finding" and "investigation" describe different modalities of human rights monitoring.

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B. Allegations of human rights violations

An allegation is unverified information pointing to the possible occurrence of one or more human rights violations or abuses. Allegations trigger the beginning of a human rights monitoring activity whereby human rights officers (HROs) may seek to collect additional information to assess this initial, unverified information to determine whether one or more violations or abuses have occurred.

Not all allegations can be verified or corroborated to the same degree. It is thus important for HROs to give an objective account of all the information that they were able to collect and the degree to which they could corroborate facts concerning each element of a violation or abuse.

C. Casualty recording

Casualty recording is the systematic collection and verification of information on individual deaths and, in some instances, injuries in situations of violence, including during unrest or a crisis, and in situations of armed conflict.[1] Casualty recording does not necessarily aim to determine the lawfulness of deaths or injuries. Information collected on individual cases, however, as well as an aggregate analysis of casualties, may indicate that violations have occurred, including by showing the severity and scale of casualties. Casualty recording systems can be specific to certain locations, time periods, types of incidents and types of casualties, including civilian and non-civilian casualties. These systems typically operate over a set time period and are intended to be comprehensive.

D. Civil society

"Civil society" refers to individuals and groups who engage in forms of public participation and action around shared interests, purposes or values that are compatible with the goals of the United Nations and are generally distinct from government and business. They include human rights defenders and organizations (such as non-governmental organizations (NGOs) and victim groups) and various coalitions and networks (such as those promoting women's rights or environmental rights), individuals and organizations advocating for the rights of persons with disabilities, community-based groups (representing Indigenous Peoples or members of minorities, for example), faith-based groups (such as churches or other religious groups), unions (trade unions as well as professional associations such as associations of journalists or bar associations), social movements (such as peace movements or pro-democracy movements), professionals contributing directly to the enjoyment of human rights (including humanitarian workers, lawyers, doctors and medical workers), relatives of victims, and public institutions carrying out activities aimed at promoting human rights (including schools, universities and research bodies).

E. Data and data protection

In human rights monitoring, "data" refers to information, particularly facts and numbers, whether structured or unstructured. Structured data is that which is organized into predefined categories, for example location, address or date. Unstructured data includes documents, interview transcripts, audio files, multimedia and any other forms of information not organized into predefined categories. Data,

1 Casualty recording should be distinguished from "casualty tracking", which is usually carried out within a military structure to inform tactics and behaviour and to mitigate harm to civilians. See OHCHR, *Guidance on Casualty Recording* (New York and Geneva, 2019), p. 9.

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especially structured data, are the raw material for statistics. Statistical information comprises data that have been aggregated, classified or analysed within a framework that facilitates its use and interpretation (such as the indicators for the 17 Sustainable Development Goals). Data or statistics can be considered as "human rights indicators" if they relate to human rights norms or principles, and if they can be used to promote and measure the respect, protection and/or fulfilment of human rights.

In human rights monitoring, "data protection" means ensuring that HROs collect, use, store and share personal and other sensitive data in full respect for the human rights and dignity of the individuals concerned in line with the "do no harm" principle and in a non-discriminatory and gender-sensitive manner.[2]

F. De facto authorities

De facto authorities are actors that, while not being recognized as legitimate authorities by the United Nations, exercise effective control and government-like functions over territory and are therefore in a position to affect the rights of individuals and groups living in that territory. Some de facto authorities may be considered the legitimate government of a State or territory by other States, but not by the General Assembly. De facto authorities have consolidated their power over long periods of time and established civilian administrations, law enforcement and judicial institutions, and legal frameworks. De facto authorities often exercise control over disputed territories, especially in situations of frozen conflicts.

G. Duty bearers

A duty bearer is a State or non-State actor with the obligation to respect, protect and fulfil the human rights of rights holders.

H. Evidence

"Evidence" encompasses any information or material items that may be presented to a tribunal to ascertain the truth of any factual matter under its investigation. The term "evidence" is distinct from the term "information". Given their non-judicial nature, human rights monitoring and investigation efforts generally collect information – although at some later point that information may be shared with or used in judicial proceedings, at which point it becomes evidence.[3] HROs should not overuse the term "evidence" when referring generally to "information".

I. Findings

Findings are conclusions or determinations reached as a result of information gathering, analysis and verification, according to the adopted standard of proof. Findings may be factual, such as those made when undertaking casualty recording, or a combination of factual and legal, such as when a human rights body finds that each element of a human rights violation has been proven, or not proven, or that no

2 In the context of the United Nations, the Secretary-General's bulletin on "Data protection and privacy policy for the Secretariat of the United Nations" (ST/SGB/2024/3) addresses this matter.

3 Commissions of inquiry and fact-finding missions have on occasion been mandated to collect and preserve evidence of crimes and violations. See for example, the mandate of the fact-finding mission for the Sudan: "To collect, consolidate and analyse evidence of such violations and abuses, including those affecting women and children, and to systematically record and preserve all information, documentation and evidence, including interviews, witness testimony and forensic material, consistent with international best practices, in view of any future legal proceedings" (A/HRC/RES/54/2, para. 18 (b)). This mandate language is used to emphasize the potential future use of information for accountability purposes.

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violation or abuse occurred. Where a violation or abuse has occurred, the "finding" may extend to the identification of a responsible State, entity or person, as well as determining whether a remedy is required.

J. Human rights, international human rights law, international humanitarian law and international criminal law

Human rights are commonly understood as being those rights that are inherent in human beings. The concept of human rights acknowledges that every human being is entitled to enjoy their human rights, without discrimination. Some of the most frequently cited characteristics of human rights are that they are:

- Universal and inalienable
- Interdependent and indivisible
- Equal and non-discriminatory
- Focused on the dignity of human beings
- Legally protected
- Internationally guaranteed

A further feature of human rights is that they oblige States and State actors and, exceptionally, non-State actors.

International human rights law is the body of binding and non-binding instruments on human rights. It comprises legal human rights norms and standards, which States and other duty bearers must respect, protect and fulfil. International human rights law obliges States to do some things and prohibits them from doing other things.

The Universal Declaration of Human Rights, adopted in 1948, was the first international instrument to list human rights and fundamental freedoms. The Declaration is widely considered to embody legal obligations under customary international law. Over the years, international and regional human rights instruments concerning specific populations (such as children, women, migrant workers and persons with disabilities), specific themes (such as torture, racial discrimination and enforced disappearances) or regional contexts (the African Charter on Human and Peoples' Rights, the American Convention on Human Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)) have been and continue to be adopted. The full body of international human rights law consists of more than 100 treaties, declarations, guidelines, recommendations and principles in addition to, or as part of, customary international human rights law. Of these, nine are considered "core" international human rights treaties (see chapter on *Applicable international human rights and humanitarian law framework*). The core treaties have corresponding committees, which meet regularly to monitor the implementation of those treaties.

While international human rights law establishes legal obligations that are mainly binding on States, evolving international practice recognizes that non-State actors may also be human rights duty bearers in certain contexts[4] (see chapter on *Interaction with non-State actors*). This is the case, for example,

4 For example, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict provides that non-State actors should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years (art. 4 (1)). Likewise, the Committee on the Elimination of Discrimination against Women observed in its general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations that, "under certain circumstances, in particular where an armed group with an identifiable political structure exercises significant control over territory and population, non-State actors are obliged to respect international human rights" (CEDAW/C/GC/30, para. 16). See also chapter on *Applicable international human rights and humanitarian law framework*.

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for armed groups that exercise a degree of control over a given territory and population, and for de facto authorities. Other non-State actors such as business enterprises may also be duty bearers.[5] The human rights obligations of non-State actors is an area that can be expected to develop further.

International humanitarian law regulates how parties are to conduct themselves in situations of armed conflict and occupation to ensure respect for general principles of humanity. The main sources of international humanitarian law are the four Geneva Conventions of 12 August 1949 and their two additional protocols of 1977, together with customary international humanitarian law.[6]

For the purposes of this *Manual*, the term "human rights" should be understood as incorporating United Nations and regional human rights instruments, as well as the rights guaranteed by international humanitarian law.[7]

"International criminal law" refers to certain categories of exceptionally serious conduct recognized at the international level (including atrocity crimes) to which individual criminal responsibility is attached. It includes the substantive and procedural law to hold individuals engaging in such conduct criminally accountable.

K. Human rights violations, human rights abuses, violations of international humanitarian law and international crimes

Human rights violations include State transgressions of the rights guaranteed by national, regional and international human rights law. They are acts and omissions attributable to the relevant State or other duty bearer.[8] Whether in the civil, cultural, economic, political or social sphere, human rights law imposes three distinct types of obligations on States: obligations to respect, protect and fulfil. Violations occur, for instance, when a State fails to perform any of these obligations or when a law, policy or practice contravenes them.

Evolving international practice also qualifies as human rights violations some acts and omissions of non-State actors, such as violations of the right to life committed by armed groups and violations of the right to freedom of expression or to education committed by de facto authorities.[9]

Acts breaching the enjoyment of human rights that are carried out by non-State actors with temporary or no control over territory are considered to constitute "human rights abuses".[10]

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5 The Human Rights Council, in its resolution 17/4, endorsing the Guiding Principles on Business and Human Rights, emphasizes that "transnational corporations and other business enterprises have a responsibility to respect human rights".

6 See International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, (Cambridge, United Kingdom, Cambridge University Press, 2005).

7 *International Legal Protection of Human Rights in Armed Conflict* (United Nations publication, 2012). See also chapter on *Applicable international human rights and humanitarian law framework*.

8 For more on determining whether acts are attributable to a State, see International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries* (United Nations, 2001), in particular arts. 4–11.

9 Non-State actors may be "duty bearers" and have human rights obligations where they exercise a level of control over territory to the exclusion of the State. De facto authorities that exercise "government-like" functions and that exert effective control over territory may also be duty bearers.

10 In practice, these terms are not always used consistently. For instance, the Security Council, the Secretary-General and some United Nations human rights mechanisms have used "violations" and "abuses" interchangeably. See the definition of "duty bearer" in section G.

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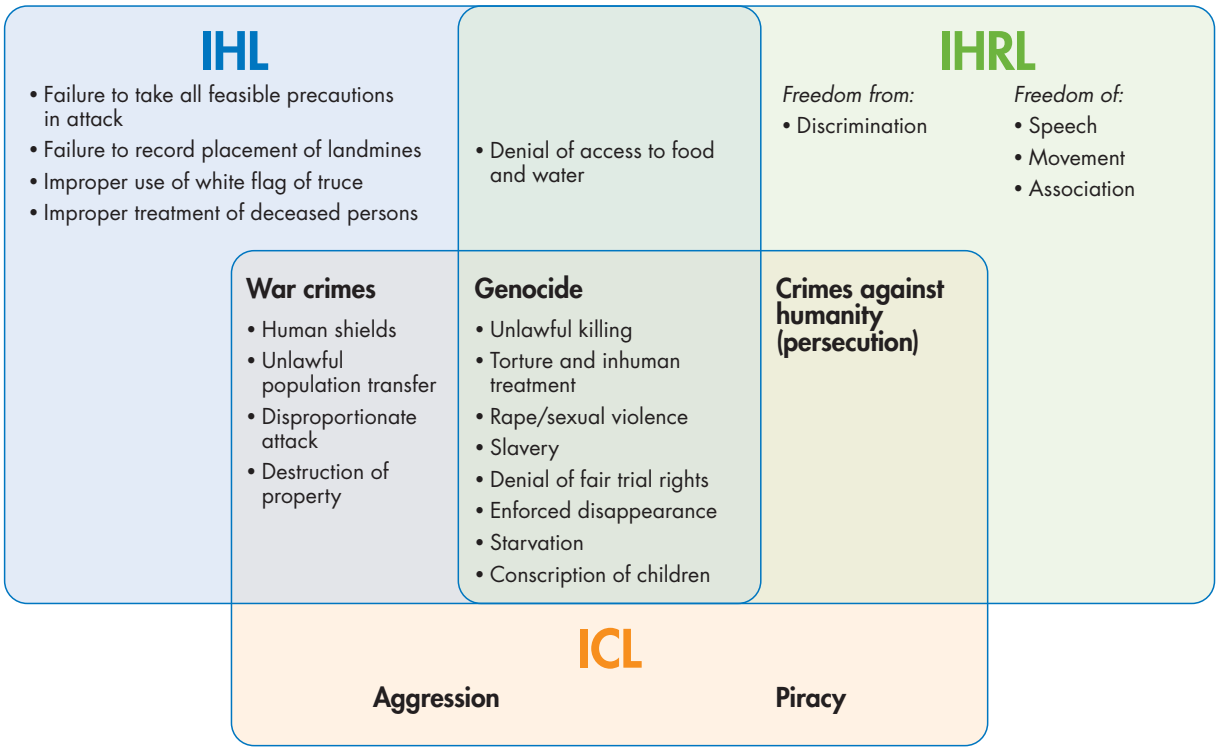
A violation of international humanitarian law is the failure of a party to an armed conflict[11] to comply with binding obligations under international humanitarian law. The most serious violations of international humanitarian law, such as wilful killing, inhuman treatment or the taking of hostages, are regarded as war crimes.[12]

Other international crimes are genocide, crimes against humanity, torture, enforced disappearance, other gross human rights violations and the crime of aggression. Importantly, an individual may be held personally accountable for committing these crimes.

International human rights law, international humanitarian law and international criminal law



Select examples – non-exhaustive

Abbreviations: IHL, international humanitarian law; IHRL, international human rights law; ICL, international criminal law.

The above diagram is for illustrative purposes only, to indicate the close relationship and interaction among the three bodies of law. The legal boundaries of the above are more complex and not as easily delineated as the diagram suggests.

11 In the case of international armed conflicts, the parties are States. In the case of non-international armed conflicts, both States and non-State actors may be parties, but at least one party must be a non-State party.

12 See ICRC, *Customary International Humanitarian Law*, rule 156. Other war crimes include torture, wilfully causing great suffering, extensive destruction or appropriation of property, compelling a prisoner of war to serve in a hostile power's forces, denial of fair trial rights, and unlawful deportation or transfer.

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L. Human rights advocacy

In this *Manual*, "advocacy" refers to all communication that is intended to persuade or produce a particular change in action or behaviour. Advocacy is based on verified or credible information about individual violations, patterns of violations, structural causes of violations or the general human rights situation. It can take the form of a single meeting or a series of meetings, confidential or public discussions, direct or indirect communication through intermediaries, written correspondence, posts on social media, press releases, or public statements or reports, where the purpose is to secure a commitment to act on the information and to remedy the human rights problem (see chapter on *Advocacy and intervention with the national authorities*).

M. Human rights analysis

Human rights analysis is the assessment and examination of relevant facts and factors that comprise or affect a human rights situation. Analysis may include an assessment of the available factual information, the consequences of a human rights problem, the person, entity or State responsible, gender integration (see chapter on *Integrating gender into human rights monitoring*), the historical or root causes of the situation, the associated trends and patterns and/or the legal elements of a violation (see chapter on *Analysis*).

N. Human rights defenders

Human rights defenders can be any person or group of persons working to promote or striving for the protection and realization of human rights and fundamental freedoms at the local, national, regional and international levels. They recognize the universality of human rights for all without distinction of any kind, and they defend human rights by peaceful means. Human rights defenders can be of any gender and any age, and they can be from any part of the world and from all manner of professional or other backgrounds. Importantly, human rights defenders are not only found within NGOs and intergovernmental organizations. In some instances, they may also be government officials, civil servants or active in the private sector.[13]

O. Human rights monitors

Human rights monitors are individuals or organizations engaged in human rights monitoring, such as United Nations human rights officers, staff in other intergovernmental, regional or civil society organizations, national human rights institutions and human rights defenders.

P. Human rights monitoring and the monitoring cycle

"Human rights monitoring" is a broad term covering the active collection, verification, analysis and use of information to prevent and address human rights violations and abuses. Monitoring is undertaken

13 On the Declaration on Human Rights Defenders, see General Assembly resolution 53/144 (A/RES/53/144), fourth preambular paragraph and art. 1. See also Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights, *Guidelines on the Protection of Human Rights Defenders* (Warsaw, OSCE, 2014), sect. A, para. 2. For more information, see also OHCHR, "About human rights defenders".

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with a view to identifying and verifying alleged human rights violations and abuses, the individuals or entities responsible, and patterns and causes (including root causes). It informs preventive, proactive and protective actions, including through visible presence and tailoring interventions with duty bearers. It provides insight into early warning, empowers rights holders, enhances referral systems, promotes accountability, and advocates for remedies, corrective action and policy and legislative changes. Monitoring can take different forms. For example, it can focus on incidents, or it can take the form of an analysis of trends and patterns. It can focus on a thematic human rights issue such as violence against women, protection of civilians, attacks on health facilities, access to safe drinking water, or caste-based discrimination. Monitoring is usually an ongoing and progressive activity undertaken on a regular basis, for example by presences of the Office of the United Nations High Commissioner for Human Rights (OHCHR).[14]

The entire process of monitoring is referred to as the human rights monitoring cycle.



Source: Created by OHCHR using Microsoft Copilot.

Human rights monitoring starts with an initial assessment of the available information on possible human rights concerns in a given context. Based on this assessment, human rights monitors develop a monitoring strategy consistent with their mandate and priorities (see chapter on *Strategic planning for human rights impact*). Monitoring strategies can also be developed for specific incidents or cases. Monitoring strategies guide the subsequent steps of the monitoring cycle (see parts III and IV of this *Manual*) and should be adaptable to unexpected changes, such as conflict spreading, natural disasters or pandemics.

Information gathering can be in relation to an incident (such as an alleged forced eviction, the alleged torture of a person while in detention, or alleged denial of public services such as medical care to members of an ethnic group), events (such as elections, trials, demonstrations or conflict), or a

14 OHCHR presences include country offices, human rights components of peace operations, regional offices, multi-country offices, human rights advisers embedded in United Nations country teams and other in-country operational footprints.

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situation/theme (such as access to primary education in a region, access to justice for survivors of sexual violence, or discrimination in disaster relief). Information gathering is conducted through different methods, such as interviews (see chapter on *Interviewing*), on-site visits (such as to places of detention, refugee camps or camps of internally displaced persons, schools or hospitals), remote monitoring (where physical access is blocked or limited), observation and recording of specific events, the collection of documents, photographs and video materials, including digital and web-based materials and those from other open sources, written submissions, or engagement with various actors, duty bearers and rights holders. The information gathered is saved in a secure information management system as a part of the documentation process, which continues throughout the cycle.

The next step involves factual and legal analysis, including an assessment of both the credibility and reliability of the sources of information and the relevance and validity of the information itself (see chapters on *Analysis* and on *Gathering and verifying information*). The purpose of analysis is to determine if the facts are verified and to assess whether they meet the legal elements of a violation or abuse – and, if they do, to establish who may be responsible. Analysis is also essential to understand the root causes of violations and abuses, and it includes undertaking gender and intersectional[15] analysis (see chapter on *Integrating gender into human rights monitoring*). Analysis should be recorded as part of the documentation effort.

Once documented, the analysis is reflected in reporting (see chapter on *Human rights reporting*), along with the findings and recommendations. On this basis, HROs undertake follow-up with authorities for their corrective action. Follow-up can consist of advocacy with various actors, including local, regional and central State actors (see chapter on *Advocacy and intervention with the national authorities*). It may also include public reporting, the use of international human rights mechanisms, the invoking of domestic or international judicial remedies, engaging United Nations or national human rights entities, civil society or the media, or making other forms of interventions. Follow-up can feed into what is known as "early warning," helping OHCHR to be proactive in preventing further violations and abuses. This is a critical stage, where the results of well-conducted information gathering and analysis are used to effect positive change aimed at redressing the human rights concerns identified.

The impact of follow-up and corrective action should be regularly evaluated. The results of the evaluation can inform and guide the next monitoring cycle regarding a similar or different concern, situation or incident. While conducting human rights monitoring, HROs may come across information about other human rights concerns or broader patterns of the same violations, both of which might require monitoring or referral to relevant United Nations entities.

As explained above, human rights monitoring is a continuum of activities extended over time and typically undertaken by OHCHR presences. Some monitoring activities tailor the steps in the cycle to the situation or to the specific mandate. The ability of special procedures mandate holders to follow up systematically on their country visits may be limited. Similarly, commissions of inquiry and other fact-finding mechanisms have a fixed time frame that allows for only limited follow-up, but these entities

15 Intersectionality analysis concerns how different aspects of identity, such as age, ethnicity, national origin, sexual orientation, class or health status, intersect with gender and result in patterns of multiple discrimination and inequality. Intersectionality analysis may also apply in relation to other protected categories, for example discrimination based on race and disability. See United Nations Network on Racial Discrimination and Protection of Minorities, *Guidance Note on Intersectionality, Racial Discrimination & Protection of Minorities* (OHCHR, 2021).

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may make recommendations to OHCHR, its presences or other international entities and civil society organizations for follow-up. It is then for others to take the work forward, based on the recommendations made by these entities.

1 Human rights assessment

A human rights assessment is undertaken in a specific country or context to analyse the existing human rights situation. Such assessments may be triggered by, for example, a need to develop or update a country-level human rights strategy or programme, a significant change in circumstances (such as a coup d'état), or a violent event, such as a natural disaster or armed conflict. Human rights assessments examine States' responses to such events and the current state of various rights and freedoms but, unlike human rights investigations, they do not generally make findings of violations and do not implement the full monitoring cycle. The results of such assessments may be used to support early warning and other preventive mechanisms, as they may predict the likelihood of violations or abuses occurring – or, if they are already occurring, whether they will worsen or result in other forms of violations. Assessment reports may be, but are not necessarily, made public.

2 Human rights fact-finding

"Fact-finding" describes an in-depth information-gathering process in response to situations of concern where human rights violations or abuses have been alleged. Fact-finding has a narrower scope than monitoring, in that it takes place over a limited period, and generally prioritizes information gathering, verification and analysis. While "fact-finding" historically focused on clarifying facts rather than rendering legal conclusions on whether the law had been violated, the concept has evolved in United Nations practice and is currently used and understood more broadly. The term may be used to describe fact-finding missions conducted by special procedures mandate holders or established by the United Nations High Commissioner for Human Rights, the Human Rights Council, the General Assembly, the Security Council or the Secretary-General, generally to address a discrete and time-bound situation. "Fact-finding" may also be used to describe the work of commissions of inquiry although, depending on the mandate, such work is usually referred to as a "human rights investigation" (see below). Fact-finding generally results in the production of public reports outlining key human rights concerns, along with recommendations on how to address them.

Fact-finding can be undertaken on its own or as an aspect of human rights monitoring when the focus is on the establishment of facts. Monitoring, however, goes beyond the establishment of facts and encompasses follow-up, protection, corrective action and a strategy to pursue change.

3 Human rights investigation

Human rights investigation is a process of detailed examination of specific allegations of violations of international human rights law.[16] It is undertaken by gathering and corroborating all relevant information with the aim of verifying whether one or more violations or abuses have occurred and, if

16 Investigating alleged human rights violations may reveal conduct that is also prohibited under other legal regimes, for instance crimes under international or domestic law, or violations of international humanitarian law. Indeed, the same conduct may violate provisions contained in more than one legal framework.

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so, it is used to identify the individuals, entities or States responsible, based on the identified standard of proof (see below). Human rights investigations often require the use of technical expertise (such as digital or medical forensics, or military expertise), as well as expertise in specific human rights areas, such as gender-based violence, the rights to water, adequate food and housing, or the use of force and firearms.

A human rights investigation can be conducted in the context of monitoring activities by an OHCHR presence, by a commission of inquiry, a fact-finding or other ad hoc investigative mission or a team established by the Human Rights Council, the Security Council, the General Assembly, the United Nations High Commissioner for Human Rights or the Secretary-General, or by other mechanisms of the United Nations such as the Subcommittee on Prevention of Torture.

Commissions of inquiry and fact-finding missions

"In the United Nations context, the terms 'international commission of inquiry' and 'international fact-finding mission' have been used to designate a variety of temporary bodies of a non-judicial nature, established either by an intergovernmental body or by the Secretary-General or the High Commissioner for Human Rights, and tasked with investigating allegations of violations of international human rights, international humanitarian law or international criminal law and making recommendations for corrective action based on their factual and legal findings."[17]

While the timeframes, depth, scope and technical expertise available may differ, human rights monitoring, fact-finding and investigations apply essentially the same methodology, particularly with regard to information gathering, verification and analysis. All of them generally result in reports, including factual findings, legal conclusions as to violations of international law (to the extent allowed by the information available), and recommendations on how to address the human rights concerns, violations or abuses identified.[18]

4 Human rights observation

"Human rights observation" refers to the active process of watching events such as assemblies, trials, elections, evictions and demonstrations as they occur and responding to human rights issues that arise. It is an aspect of human rights monitoring which nearly always requires an on-site presence. This serves the purposes of collecting first-hand information about the event observed, undertaking preventive interventions as appropriate, and protecting through presence (see chapter on *Using presence and visibility*).

The illustration below shows examples of the different types of activities that can be undertaken as part of the broad monitoring work in a given area, such as monitoring in the context of elections.

17 OHCHR, *Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice* (New York and Geneva, 2015), p. 7.

18 The use of these various terms may also depend on the geographical and political context. For example, the Human Rights Council has established numerous commissions of inquiry and fact-finding missions with similar mandates, often using those terms interchangeably. OHCHR presences in Latin America have been using the term "observation" ("observación") with the same meaning as "monitoring".

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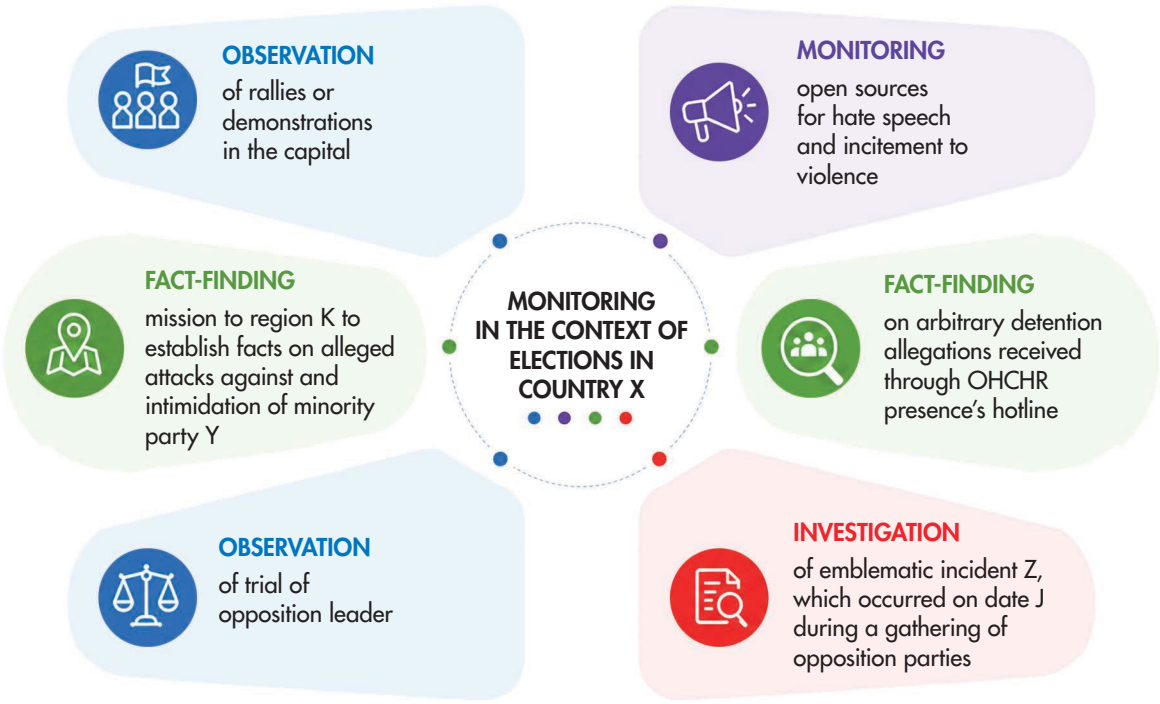
Monitoring in the context of elections in country X



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Q. Human rights officers

In the context of this *Manual*, a human rights officer (HRO) is primarily a staff member of OHCHR – whether as part of an OHCHR presence, which may include human rights components of United Nations peace operations or political missions, or a staff member working at OHCHR Headquarters, who performs human rights monitoring, including investigations, reporting, technical assistance and, more broadly, functions related to human rights promotion and protection. This *Manual* focuses primarily on the functions related to human rights monitoring.

HROs can be national or international staff. The functions that national and international HROs perform depend on several factors, such as the country's political and security situation and/or the nature of cases and their sensitivity in the cultural context.

R. Incidents and cases

OHCHR human rights monitoring methodology defines an "incident" or "case" as an event, situation or occurrence, recorded by OHCHR, which may, if verified, amount to at least one human rights or humanitarian law violation or abuse.[19] Normally, information about an occurrence contains several or all of the "six Ws and H" (Who did What, to Whom, Where, When, Why and How) and triggers further inquiry to fill in and corroborate incomplete information (see "Verification and corroboration"). The Who is the perpetrator (see "Perpetrators"), while "to Whom" refers to the victim/survivor (see "Victims/survivors"). The What and the How refer to the manner and circumstances in which the incident or case occurred.

19 "Casualty recording", although considered part of "monitoring", is methodologically different in this respect, as its "verified incidents" may or may not amount to human rights violations (see section C on "Casualty recording").

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S. Informed consent

Informed consent is permission, voluntarily and freely given by a person, for another person to undertake an action. To be "informed", the consent to act must be based upon a clear appreciation and understanding of the facts, implications and potential consequences of the other's action. In human rights monitoring, securing informed consent requires an HRO to explain at the outset the purpose for which information is being collected and how it will be used, and the source must understand the ramifications of providing information, including for their security, their privacy and that of their colleagues, friends and family (see chapter on *Interviewing*).

T. Marginalized groups

Marginalized groups are groups relegated to the margins of society, both in their daily lives and in the exercise of their human rights. Marginalization may occur through prevailing patriarchal attitudes, stereotypes, assumptions and social constructs. Frequently marginalized groups include persons with disabilities, youth (including children), lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) people, members of minority groups, Indigenous Peoples, internally displaced persons and non-nationals, including refugees, asylum seekers and migrant workers. Marginalized groups may change as the social and political environment changes, including through changes in control over territory. Some groups, such as human rights defenders, are marginalized not because of their identity, but because they actively lobby for the rights of others. "Marginalized", rather than "vulnerable", is used in this *Manual* in order not to depict members of such groups as helpless or passive victims of the conditions in which they find themselves.

U. Non-State actors

Non-State actors are all individuals, groups or entities outside the State apparatus, such as businesses, civil society, non-State armed groups and de facto authorities. Specific chapters of the *Manual* provide guidance on how to conduct monitoring work in relation to these actors (see chapters on *Engagement and partnerships with civil society* and on *Interaction with non-State actors*).

V. Perpetrators

A perpetrator is a person (or group of persons), entity or institution that is part of or linked to State authorities or another duty bearer, and that is directly or indirectly responsible for a human rights violation or abuse through an act or omission.

Based on their role and their actions (or omissions), perpetrators may have different degrees of involvement and therefore varying levels of responsibility. It is important to obtain information that can help identify perpetrators who directly carried out the violation or abuse, those who may have assisted or facilitated its occurrence, and those throughout the chain of command, including at the highest levels.[20]

20 See OHCHR, *Who's Responsible? Attributing Individual Responsibility for Violations of International Human Rights and Humanitarian Law in United Nations Commissions of Inquiry, Fact-Finding Missions and Other Investigations* (New York and Geneva, 2018).

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W. Remote monitoring

"Remote monitoring" refers to human rights monitoring in situations of little or no access to the location where alleged violations are taking place.

X. Rights holders

A rights holder is an individual, population or group that has particular entitlements in relation to specific duty bearers. For the purposes of this *Manual*, human beings and social groups are rights holders vis-à-vis State and non-State actors with human rights obligations.

Y. Sources

A source is a person (or group of persons), institution, organization or other entity that can provide, or has provided, information, including testimony, reports, photos, physical or digital materials or contextual information related to a human rights incident or situation. Sources are assessed for their credibility and reliability, which can change over time.

Human sources are varied. They include human rights defenders, victims, survivors, witnesses, media activists, journalists, traditional and religious leaders, academics, technical experts, government officials and defectors. Sources can also be entities such as States, national human rights institutions, non-governmental organizations, research institutions, universities, United Nations agencies and diplomatic representations.

Primary sources are those that can provide first-hand information about a human rights incident, situation or problem. Primary sources are typically victims or survivors of violations, witnesses or perpetrators. Their information is "first-hand" because they had personal experience or were directly exposed or linked to the incident or event. HROs who are present at the site of an incident and directly observe it or its aftermath (for example, during a demonstration where excessive force is used, or at a location where slum dwellers were forcibly evicted) can also be considered a primary source of information about the events they witnessed.

Secondary sources are those that provide second-hand information about a human rights incident, situation or problem which they did not directly witness or experience. This information may have been reported to them by others – thus, they are the "second" to receive it. Secondary sources may also provide contextual information, analysis or leads to further information. Examples of secondary sources include relatives, lawyers, human rights defenders and reports by NGOs, journalists or other media.

Information comes in various forms, such as oral testimony, written accounts, affidavits, documents and official records (such as autopsy reports, court records or orders of battle), reports by the United Nations, maps, medical reports, video material, photographs or digital images, personal observations by HROs, or satellite images.

Open-source information encompasses publicly available information that can be obtained, purchased or requested by any member of the public. Examples include government census data and statistics, satellite imagery, books, websites and media products such as newspapers and radio broadcasts.

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Closed-source information is information with restricted access or access that is protected by law, but which can be obtained through private channels or legal processes.[21] "Digital" open-source information is open-source information on the internet, which can be accessed on public websites, internet databases or social media platforms.

Z. Standard of proof

A standard of proof[22] is a threshold of certainty. It is that point on a spectrum between pure conjecture and absolute certainty, above which an allegation is accepted as verified or proven, and below which it is not. The quantity and quality of corroborated information about human rights violations or abuses must be sufficiently convincing to reach that point before declaring that a violation has occurred.

The standard of "reasonable grounds to believe", when adopted in human rights monitoring, means that, based on a body of corroborated information, an objective and ordinarily prudent observer would find that there are reasonable grounds on which to believe that the incidents took place as described.[23] This threshold is significantly lower than "beyond reasonable doubt" as used for criminal convictions.

The "reasonable grounds" standard is generally used in human rights monitoring where a case or incident is presented as a violation of human rights (or a violation under another legal framework), whether in public reports, in press statements or through other forms of public advocacy. A lower standard may be used for early warning purposes when raising concerns confidentially with authorities or in calling public attention to serious allegations.[24]

AA. Verification and corroboration

Verification is the process of collecting sufficient information about a human rights incident or circumstance to establish how, when and where it happened and who was involved. Verification entails analysis of the individual sources and the information those sources provide, as well as the application of the standard of proof (see section Z on "Standard of proof"). Corroboration is an aspect of verification whereby gathered information is compared with information obtained from other credible sources that are independent from one another to assess and identify consistencies (or inconsistencies). HROs with information about a violation from any single source should aim to confirm it by obtaining concurring (corroborating) information from two other independent sources. Information based on a single credible account or source may be considered corroborated where it forms part of a pattern of similar incidents (see chapter on *Gathering and verifying information* 📖).

In human rights monitoring, the word "documented" is often used as a synonym of "verified".[25]

21 OHCHR and the Human Rights Center at the University of California, Berkeley, School of Law, *Berkeley Protocol on Digital Open Source Investigations* (New York and Geneva, 2022), p. 7.

22 See OHCHR, *Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law*, p. 62.

23 The International Criminal Court employs the "reasonable grounds to believe" standard for issuing an arrest warrant. See the Rome Statute of the International Criminal Court, art. 58 (1) (a).

24 Not all information presented publicly must be verified. OHCHR regularly raises concerns based on credible allegations and reports. However, where OHCHR publicly presents a case or incident as a violation of human rights, it will do so only when the information has been verified and the standard of proof has been met.

25 In ordinary English, these terms have different meanings. "To verify" is to focus on establishing truth or accuracy, while "to document" can be understood as recording or noting something down.

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BB. Victims/survivors

A victim is a person (or group of persons) who has suffered some type of harm (including physical or psychological harm, loss of property or impairment of rights) as a result of a human rights violation or abuse. "Victim" is a legal term denoting such status and indicating that the individual (or group) is entitled to protection, remedy and redress. The term "survivor" may be a more appropriate term for those who have suffered trauma as a result of violations or abuses (see chapter on *Trauma and Self-Care*). The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.[26]

CC. Witnesses

A witness is a person (or group of persons) who was present at the location where a human rights incident occurred and/or experienced it visually, aurally or through any other physical sensation, and can therefore provide a first-hand account. Witnesses are generally considered a primary source.[27]

People who see videos or images of a human rights incident on a screen, even in real time, are not considered to be witnesses, because they did not experience the incident directly and were not present at the location where it occurred.

26 See also the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34.

27 This definition differs from those of other contexts, which may be broader. For example, in some judicial proceedings an "expert witness" might provide an opinion on a medical report. In this *Manual*, such an expert would be deemed a "source".

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MANUAL ON human rights MONITORING

This chapter forms part of the revised *Manual on Human Rights Monitoring*. Following the success of its first edition, published in 2001, the Office of the United Nations High Commissioner for Human Rights has updated and restructured the *Manual*, to provide the latest and most relevant good practices for the conduct of monitoring work by human rights officers, under the approach developed and implemented by the Office.

The revised *Manual* provides practical guidance for those involved in the specialized work of human rights monitoring, particularly in United Nations field operations. This publication comprehensively addresses all phases of the human rights monitoring cycle, setting out professional standards for the effective performance of the monitoring function. It also outlines strategies to maximize the contribution of monitoring to the protection of human rights.

While each chapter has been made available separately, linkages with other chapters are highlighted throughout. A full reading of the *Manual* is thus recommended for a comprehensive understanding of human rights monitoring.

This tool has been tailored to the everyday needs of United Nations human rights officers in the field. The methodology it sets out would, nonetheless, be of equal relevance to others tasked with human rights monitoring functions. Its wider use and application by regional organizations, national human rights institutions, non-governmental organizations, relevant governmental bodies and others is strongly encouraged.









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