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International
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Statistical Classification Framework and Methodological Guidance Note on **SDG Indicator 16.10.1 Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months**¹

Introduction

On 6 July 2017 the General Assembly adopted the Global Indicator Framework² to guide the implementation of the 2030 Agenda for Sustainable Development. It includes, with OHCHR as custodian agency, SDG indicator 16.10.1 whose current formulation stands as follows:

“Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months”³

SDG indicator 16.10.1 is one of two indicators that would directly measure target 16.10 on ensuring public access to information and protecting fundamental freedoms in accordance with national legislation and international agreements. It specifically measures the second

¹ This is the current approved formulation of the indicator (E/2017/24-E/CN.3/2017/35). Informed by ongoing efforts to improve the methodology of the indicator, and consultations with relevant stakeholders, OHCHR, UNESCO and ILO have agreed to work towards a refinement of the current formulation to streamline and closely align it with target 16.10. The working draft of the proposed refinement is as follows:

“Number of verified cases of killing, enforced disappearance, torture, arbitrary detention, kidnapping and other harmful acts against journalists, trade unionists and human rights defenders”

² The framework is laid out in a GA resolution entitled “Work of the Statistical Commission pertaining to the 2030 Agenda for Sustainable Development” which was previously endorsed by the Economic and Social Commission and the UN Statistical Commission on the basis of technical work by the Inter-agency and Expert Group on SDG Indicators.

³ E/CN.3/2017/2

part of the target – protection of fundamental freedoms – in recognition of the fact that human rights violations and abuses perpetrated against journalists, trade unionists and human rights defenders, and the people who support and work with them, not only have a direct impact on victims’ enjoyment of rights but have a massive inhibiting effect on the general population.

It is envisioned that statistical information of this type would support the analysis of various factors: *structural* (e.g. whether there is a functioning human rights protection system, including a free press and a credible criminal justice system), *risks* (e.g. discerning general patterns of harm and repression against journalists and other civil society actors) and *results* (e.g. civic space).

As custodian agency OHCHR is responsible for coordinating with other agencies and stakeholders who are interested in contributing to the development of indicator 16.10.1 as well as for:

- *Collecting and reviewing available data from relevant global, regional and national mechanisms and sources;*
- *Providing a storyline for the annual global SDG progress report;*
- *Providing and regularly updating metadata;*
- *Working on the methodological development and further refinement of the indicator; and*
- *Contributing to capacity building in data collection, processing and exchange.*

In this context, OHCHR in collaboration with two other international organisations, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labour Organization (ILO), has engaged in the development of appropriate methodological and data collection approaches for indicator 16.10.1. This document encapsulates these efforts. It proposes a specific statistical classification framework to be used by data sources and providers in classifying the cases reported to them. It also provides methodological guidance for data collection and reporting. This document complements the metadata prepared according to the agreed templates developed under the auspices of the IAEG-SDGs.

The outlined statistical classification framework, specifically developed for the purpose of indicator 16.10.1 was the result of an interdisciplinary exercise that sought to bring together international legal and statistical standards. While it is based structurally on the International Classification of Crimes for Statistical Purposes (ICCS) disseminated by the UN Office of Drugs and Crime (UNODC), the normative definition of the different types of violations and components of the indicator have been developed drawing further on

international law. ICCS was endorsed by both the UN Statistical Commission⁴ and the UN Criminal Justice and Crime Prevention Commission back in 2015.⁵

The elaboration of the approach has involved a process of coordination between OHCHR, UNESCO and ILO to harmonize and build upon existing standards and methodologies, and to integrate their data into one collection that serves the purposes of this indicator. This involved consultations with a range of relevant stakeholders, including national statistical offices as part of the work of the Praia City Group on Governance Statistics created by the UN Statistical Commission and the Global Alliance of National Human Rights Institutions (GANHRI). On 5-6 September 2017, a multi-stakeholders consultation brought together national statistical offices (Cabo Verde/secretariat of the Praia Group, Colombia, Kenya, Mexico, Philippines, South Africa, United Kingdom), national human rights institutions (from the same countries, plus Denmark), civil society organisations and international and regional organizations and mechanisms (UNODC, UNDP, UNFPA, the EU Fundamental Rights Agency and the UN Special Rapporteur on the situation of human rights defenders). The participants in the consultation validated the proposed methodology developed by OHCHR.

⁴ E/2015/24-E/CN.3/2015/40

⁵ E/CN.15/2015/19

A. What is the International Classification of Crime for Statistical Purposes (ICCS)?

As a system for statistical classification, ICCS conforms to the standard definition:

“A set of discrete, exhaustive and mutually exclusive categories which can be assigned to one or more variables used in the collection and presentation of data, and which describe the characteristics of a particular population.”

It is based on internationally agreed concepts, definitions and principles put together to enhance the consistency and international comparability of crime statistics. ICCS also seeks to expand the analytical capabilities of crime statistics at all levels. More importantly, ICCS aims to help unblock technical constraints on the organization of statistical data posed by exclusive reference to legal provisions, such as articles in legal or penal codes, which are not always relevant from an analytical standpoint as they vary widely across national legal systems. In addition, ICCS has incorporated certain elements of international law (human rights law, international humanitarian law and international criminal law). Therefore, regardless of their characterization under domestic law – whether or seen as crimes, violations or abuses – ICCS makes it possible to classify these events globally.

ICCS rests on three core statistical principles:

Mutual exclusivity: every elementary manifestation of the phenomenon under study should be assigned to one and only one category of the classification such that there are no overlaps

Exhaustiveness: every possible manifestation of the phenomenon under study should be included in the classification. One needs however to carefully balance it with criteria of practicality and policy-relevance. The ICCS also includes some events or behaviours that are criminalized in some countries while being legal in others. In a small number of cases, the criminalization of certain acts has been held to contravene international human rights law (ref. to HRC/ICCPR concluding observations, e.g. a abortion, proselytism; libel and defamation).

Statistical feasibility: that it is possible to effectively, accurately and consistently distinguish between the categories in the classification on the basis of the information available. Application of the principle of statistical feasibility of a statistical classification means that observations can be allocated to categories in

The basic approach to the compilation of this indicator is to first define events as violations and abuses in accordance with international law, then use corresponding ICCS categories and codes to classify these cases behaviourally for purposes of SDG reporting.

In practical terms and consistent with the indicator’s formulation, mechanisms, bodies, and institutions that have the mandate, capacity and independence to document and investigate alleged human rights violations or abuses, will have to be prioritized in the selection of potential data sources/providers at national level. This refers primarily to national human rights institutions (NHRIs), prosecution offices, police and other law enforcement agencies, and national statistical offices.

The work of NHRIs invariably links national criminal justice systems with issues relating to the protection and promotion of internationally agreed human rights standards. NHRIs,

especially those with the mandate to investigate alleged human rights abuses, cooperate with national, regional, hybrid and international judicial bodies by providing information and technical advice, bringing legal cases and conducting monitoring activities to ensure that the rights of victims, witnesses and the accused that interact with judicial bodies are protected.⁶ On the other hand, regional and international human rights mechanisms view the criminal justice system as an integral component of the State's efforts to meet its international human rights obligations. OHCHR, for its part, not only supports the different UN human rights mechanisms as they discharge their standard-setting and monitoring duties but also works for the implementation of these standards on the ground through greater country engagement and field presence activities. Thus, monitoring human rights situations is a core element of its overall strategy and takes many forms, including incident-based monitoring, human rights investigations and analysis of trends and patterns. Through its human rights monitoring work, which is undertaken in accordance with international human rights standards, OHCHR actively collects, verifies and uses information to prevent and address human rights violations.⁷

For example, OHCHR gathers information in the course of its human rights monitoring work, verifies, analyses and reports using appropriate information management systems. A Glossary of International Human Rights and Humanitarian Law Violations (see Box B) provides guidance to human rights officers who document violations in classifying, analysing and reporting on violations. The Special Procedures of the UN Human Rights Council⁸, supported by OHCHR, also compile data based on situations and individual complaints. These human rights monitoring processes can provide the basis for a global effort to record and report more systematically cases, patterns and trends relating to the enjoyment of human rights and fundamental freedoms by individuals and groups.

The interaction between national criminal justice systems and human rights mechanisms at different levels, including with OHCHR, creates the proper conceptual parameters for the creation of a statistical tool that bridges the fields of human rights and crime justice with a view to supporting the implementation of SDG indicator 16.10.1.

⁶ OHCHR, Guidance Note on National Human Rights Institutions and Transitional Justice (2008), p. 18

⁷ OHCHR, Manual on Human Rights Monitoring, Chapter 2, p. 4. See also, OHCHR Annual Report 2016, Highlight of Results, p. 52

⁸ Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the UN Human Rights Council's independent fact-finding and monitoring mechanisms that address either specific country situations or thematic issues in all parts of the world. Special Procedures' experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent from any government or organization and serve in their individual capacity. OHCHR provides support to the various special procedures. A searchable database of communications issued by special procedures is accessible at: <https://spcommreports.ohchr.org/>

Methodological Guidance

OHCHR and its data partners aim to produce this indicator based on the highest quality data possible. This is based on the following considerations:

Case-specific data

For this indicator, only statistics that can be broken down into specific cases involving one particular victim of a human rights violation or abuse will be used for purposes of producing country-level, regional and global estimates. This applies also in instances where official aggregated statistics are available. This approach serves as a check against double counting, and ensures consistency and comparability across the range of contributing data sources.

Defined event

A data source is also responsible for defining and classifying a violation or abuse that constitutes an event in the statistical sense. For this purpose, the following analytical syntax would be useful:

“Who did what to whom, where and why?”

This translates into a minimum set of verifiable data that altogether defines the event (see, Table 1)

Table 1 – Elements of a statistical event covered by this indicator

Element	Field	Category
Who did	<ul style="list-style-type: none">Perpetrator	<ul style="list-style-type: none">State actorOther actors acting with the State's permission, support or acquiescenceOther actors not acting with the State's permission, support or acquiescence/private actorsInsufficient information
What	<ul style="list-style-type: none">Violation or abuse type	<ul style="list-style-type: none">KillingEnforced disappearanceTortureArbitrary DetentionKidnappingOther Harmful Acts
	<ul style="list-style-type: none">Related violation or abuse type (up to 3)	<ul style="list-style-type: none">KillingEnforced disappearanceTortureArbitrary DetentionKidnappingOther Harmful Acts
To whom	<ul style="list-style-type: none">Name of victim	Free text
	<ul style="list-style-type: none">Victim Type	<ul style="list-style-type: none">JournalistTrade UnionistHuman Rights Defender
	<ul style="list-style-type: none">Sex of victim	<ul style="list-style-type: none">ManWomanUnknown
	<ul style="list-style-type: none">Age group of victim	<ul style="list-style-type: none">Adult (18 and above)Child (below 18)
When	<ul style="list-style-type: none">Date of incident	DD-Month-YYYY

Where	<ul style="list-style-type: none"> Town/city/province or other sub-national entity where the incident happened 	Free text
	<ul style="list-style-type: none"> Country of incident 	Coded (M49)
	<ul style="list-style-type: none"> Region of incident 	Coded (M49)
Why	<ul style="list-style-type: none"> Context of the incident 	<ul style="list-style-type: none"> Reasonable basis to conclude that attack was motivated by victim's activities as a journalist, trade unionist or human rights defender Unlawful attacks and destruction in violation of international humanitarian law leading to or intending to cause the victim's death
	<ul style="list-style-type: none"> Thematic area of engagement of the victim 	Controlled natural language

Except for those that allow for free text and controlled natural language entries, all the different categories are to be coded (see Statistical Classification Framework).

Verified case

Each case will have to be verified by the data source/provider in a manner consistent with OHCHR's human rights monitoring practice. Verification (or corroboration) refers to the process of ensuring that information gathered by a data source has been checked against other information obtained from independent and reliable sources. These can be primary or secondary sources, or sources indicating patterns of events. Verification is not just a procedural step as it facilitates the rigorous analysis of the elements, underlying context and broader implications of a particular case. The term "verified cases" refers to reported cases that contain a minimum set of relevant information on particular persons, which have been reviewed by mandated bodies, mechanisms, and institutions and provided them with reasonable grounds to believe those persons were victims of human rights violations or abuses.

Identifying the victim

The name of the victim is a minimum data requirement for two reasons. First, it is considered as one of the most effective means of avoiding double counting. Second, since the data is generated by human rights mechanisms and exist in the form of administrative records, there is a high probability that granular information would include this piece of information. Moreover, data sources would more likely than not consider the name of the victim as a minimum data requirement both for technical/procedural as well as substantive (e.g. to support related accountability, remedies and reparations processes) reasons. Where a victim's name is known but the data source would deem it more prudent – in order to mitigate or avoid further harm – to not disclose it, the case should still be counted provided that the other considerations (case specificity, verifiability and event distinctiveness) are met.

Counting rules

The basic counting unit for this indicator is the victim, which means that one case should yield one victim and the totals for both will have to be identical. A single incident that claimed two victims will have to be recorded as two cases corresponding to each victim.

In counting the type of violation or abuse, the “most serious offence” rule in criminal justice statistics shall be applied. This means that where more than one offence is committed against the same victim in the preceding 12-months, only the most serious offence is counted against the indicator. Related violations or abuses, whether occurring at the same time as the most serious one or at a different time, shall nevertheless be recorded but not counted against the indicator. Thus, data sources will have to take into account the following hierarchy of violations or abuses:

1. Killing
2. Torture
3. Enforced disappearance
4. Arbitrary detention
5. Kidnapping
6. Other harmful acts

If an incident incorporates elements of more than one category, it is coded to the higher category. Thus, for an incident in which the victim was subjected to prolonged incommunicado detention without medical access in the course of an unlawful detainment, the violation would be counted under torture.

The number of perpetrators implicated in any single case will be considered immaterial. In the event that two or more perpetrators are implicated in one case but they belong to different perpetrator categories, the following rule of priority shall be applied:

1. State actor
2. Other actors acting with the State's permission, support or acquiescence
3. Other actors not acting with the State's permission, support or acquiescence/private actors
4. Insufficient information

Classifying cases

Using an interdisciplinary approach to the measurement of human rights violations or abuses, verified cases will be classified using a two-step process. First, the factual elements of a case are considered in order to determine whether a violation or abuse has taken place as against a particular victim. For this purpose, OHCHR's Manual on Human Rights Monitoring would provide guidance to the data source. Once a case has been defined, the data source then assigns a unique code and proceeds to the second step which is to classify the case according to ICCS. This step directly responds to the requirements of the indicator by allowing further disaggregation based on different types of violations and abuse. Analytical capability is also expanded through the use of relevant categories to disaggregate the data.

Reference period

Cases are reported to or taken cognizance of by data sources on a continuing basis but for purposes of SDG annual reporting, the reference period shall be from 1 January to 31 December of the preceding year.

Geographical coverage

The indicator covers all countries or areas of the world, grouped according to geographical regions, as reflected in the M49 standard prepared by the UN Statistics Division and used for SDG reporting.

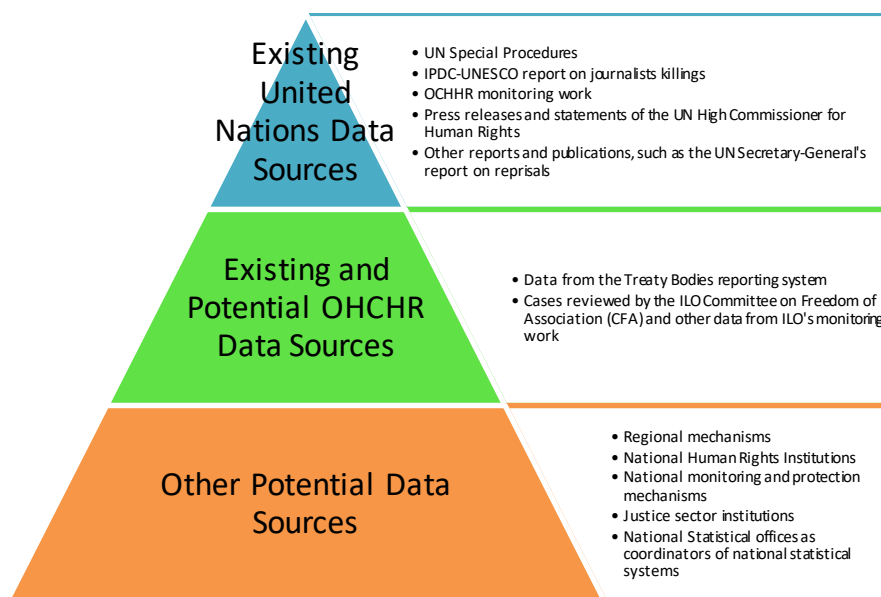
Data sources

A data source or provider refers to the organisation from where statistics are obtained. The term “also refers to the characteristics and components of the raw statistical data used for compiling statistical aggregates. Both meanings apply in relation to administrative data on violations and abuses generated in the course of monitoring activities conducted by a human rights body, mechanism, or institution pursuant to its mandate.

Consistent with an evolutionary approach, this indicator will compile **administrative data** from existing **international mechanisms mandated by member States to monitor the state of implementation of human rights and fundamental freedoms**. These mechanisms receive complaints **concerning attacks on journalists**, trade unionists and human rights defenders from a variety of **primary and secondary sources**. They have global geographical coverage. More importantly, these mechanisms invariably verify the information they receive by checking against other information obtained from **independent and reliable sources**, and apply a standard of proof based on “reasonable grounds to believe”.

It is envisaged that in succeeding stages **national and regional mechanisms** will start contributing their own data. Appropriate legal, policy, operational and technical frameworks will have to be established to regulate the level and manner of access to their data collections. In particular, the role of **National Statistics Offices (NSOs) vis-à-vis National Human Rights Institutions and other potential data sources at national level** in terms of data flows and reporting will need to be further defined, based on emerging good practices.

Figure 1: Existing and potential data sources



Stages of data collection

Data on a specific case will be collected by OHCHR and its partner agencies from a data source after the case is first reported to (or taken cognizance of by) and verified by the latter. Case-specific data will then be integrated into a single dataset. In contrast to this approach, which has been referred to

as “process” stage collection, “output” stage data (or those recorded after a case has been fully investigated or adjudicated within the relevant legal system) may be considered for purposes of periodic revision or reclassification of cases.

Data comparability

The uniform application of the preceding definitions, coverage, and stage of data collection, reference period, counting unit and counting rules would help ensure data comparability across countries and data source.

Data structure definition

In step with the broad approach of international and supranational statistical agencies (ISSAs) to global data reporting and sharing, this indicator will eventually be developed further to include a Data Structure Definition (DSD)⁹ that conforms to Statistical Data and Metadata eXchange (SDMX) standards. SDMX is seen by ISSAs as the preferred modality for the collection and exchange of SDG data. Using SDMX is also expected to reduce national and international reporting burdens for the SDGs.

Data storage, handling and risk management

The overriding human rights principle of *do no harm* should always be respected. Data on personal characteristics, when collected for reasonable statistical purposes, must be kept safe and used only for the benefit of the groups it describes and society as a whole. Data collection processes should not create or reinforce existing discrimination, bias or stereotypes exercised against population groups, including by denying their identities. Any objections by these populations must be taken seriously. Do no harm also means that nothing in this guidance note should be interpreted as an invitation, encouragement or endorsement of any initiative or practice that seeks to discriminate against population groups and expose them to risks of serious human rights violations (or which has this effect). No use of data shall be countenanced where these risks could not be avoided or mitigated significantly.

⁹ The DSD is metadata describing the structure and organization of a data set, the statistical concepts and attached to them code lists used within the data set.

<https://webgate.ec.europa.eu/fpfis/mwikis/sdmx/index.php/SDMX>

Statistical Classification Framework

A. KILLING

<p>Extrajudicial execution or other unlawful killing¹⁰ by State actors or other actors acting with the State's permission, support or acquiescence who were motivated by the victim, or someone associated with the victim, engaging in activities as a journalist, trade unionist or human rights defender; or while the victim was engaged in such activities; or by persons or groups not acting with the support or acquiescence of the State who were motivated by the victim engaging in activities as a journalist, trade unionist or human rights defender, and/or coupled by a failure of due diligence¹¹ on the part of the State, such a failure having been motivated by the victim or someone associated with the victim, engaging in activities as a journalist, trade unionist or human rights defender; and other unlawful attacks and destruction in violation of international humanitarian law leading to or intending to cause the victim's death.</p>		
<p>0101 Intentional homicide</p> <p>Unlawful death inflicted upon a person with the intent to cause death or serious injury.</p>	+	<p>Inclusions:¹² murder; serious assault leading to death; femicide; honour killing;¹³ voluntary manslaughter; killings caused by excessive use of force by law enforcement officials; extrajudicial killings and extra-legal, summary or arbitrary executions.</p>

¹⁰ See, articles 3 UDHR, 6 (1) ICCPR, 6(1) CRC, 9 ICRMW, 10 CRPD, and at the regional level, articles 2 ECHR, 4 ACHR and 4 ACPHR. The right not to be arbitrarily deprived of one's life is considered as a customary norm and non-derogable. I. Bantekas and L. Oette, *International Human Rights Law and Practice* (CUP, 2013) 315-316, citing Restatement (Third) of the Foreign Relations Law of the United States, s 702; Rule 89 of the ICRC Customary International Humanitarian Law Database, and, UN Human Rights Committee, General Comment 6 (1982) and General Comment 24 (1994). From the IHL perspective, article 85(3) a, Additional Protocol I (attacks on civilians) and common article 3, Geneva Conventions (murder).

¹¹ The duty of due diligence implies a duty of vigilance and prevention on the part of the State. International Court of Justice, *Pulp Mills on the River Uruguay, Argentina v Uruguay*, Judgment of 20 April 2010, para. 204. In terms of State obligations in relation to human rights this duty is often set out as the duty to respect human rights, that is preventing public officials from committing human rights violations, and the duty to protect human rights, that is taking measures to prevent violations by private individuals or entities. CEDAW art 2(e); General Assembly resolution 48/104, Declaration on the elimination of violence against women art. 4(c); Committee on the Elimination of Discrimination against Women, general recommendation No. 19, para. 9; Human Rights Committee, general comment No. 20, para. 2; Human Rights Committee, general comment No. 31, para. 8; Inter-American Court of Human Rights, *Velásquez Rodríguez v Honduras*, Judgment of 29 July 1988, Series C, No. 4, para. 172; African Commission on Human and Peoples' Rights, Communication No. 245/2002, *Zimbabwe Human Rights NGO Forum v Zimbabwe*, 21 Activity Report (2006), para. 147. At the regional level, the Inter-American Court of Human Rights has held that preventive measures include "all those means of a legal, political, administrative and cultural nature that promote the protection of human rights and ensure that any violations are considered and treated as illegal acts". Inter-American Court of Human Rights, *Velásquez Rodríguez v Honduras*, Judgment of 29 July 1988, Series C no 4, para. 175.

¹² Irrelevant ICCS legal inclusions that have been deleted: dowry-related killing and infanticide

¹³ WHO has defined and classified femicide cases on the basis of misogynous or gender-related motive. (http://apps.who.int/iris/bitstream/10665/77421/1/WHO_RHR_12.38_eng.pdf)

	-	Exclusions: death due to legal interventions; justifiable homicide in self-defence; ¹⁴ (0102) attempted intentional homicide; (0103) non-intentional homicide, (01031) non-negligent or involuntary manslaughter; (0104) assisting suicide or instigating suicide; (0105) euthanasia.
0102 Attempted intentional homicide Attempt to inflict unlawful death upon a person with the intent to cause death or serious injury.	+	Inclusions: ¹⁵ Attempted murder; attempt to inflict death as a result of terrorist activities; attempted femicide; attempted extrajudicial killings/extra-legal, summary or arbitrary executions.
	-	Exclusions: All inclusions to 0101
110131 Unlawfully killing, causing or intending to cause death or serious injury associated with armed conflict Acts that result in death or serious injury, or intend to cause death or serious injury in violation of the laws and customs applicable in armed conflict as expressed in the Rome Statute and the Geneva Conventions (1949).	+	Inclusions: ¹⁶ wilful killing; wilfully causing great suffering or serious injury to body or health; unlawful killing of civilians by parties to an armed conflict; intentionally using starvation of civilians as a method of warfare; subjecting persons to physical mutilation of medical/scientific experiments that are not justified or in the person's interests; wilful killing of protected persons (civilians, prisoners of war and members of armed forces placed <i>hors de combat</i>); ¹⁷

¹⁴ These particular grounds for exclusion should only be applied on the basis of a determination made by relevant judicial or quasi-judicial bodies at national and international levels.

¹⁵ Changes to ICCS legal exclusions: deleted attempted infanticide and added attempted extrajudicial killings/extralegal killings or arbitrary executions

¹⁶ Changes to ICCS legal inclusions: deleted killing or wounding a combatant who has laid down arms and has surrendered; killing or wounding treacherously individuals belonging to the hostile nation or army; declaring that no quarter will be given; added killing or wounding treacherously individuals belonging to the hostile nation or army; declaring that no quarter will be given; wilful killing of protected persons (civilians, prisoners of war and members of armed forces placed hors de combat); crossfire/non-targeted deaths, or death in the course of undertaking dangerous assignments, or deaths resulting from indiscriminate and/or disproportionate attacks carried out by parties to an armed conflict

¹⁷ For international armed conflict: Geneva Convention I art. 50; Geneva Convention II art. 51; Geneva Convention III art. 130; Geneva Convention IV art. 147 and Additional Protocol I art. 75(2)(a)(i). For non-international armed conflict: Common art. 3 of the Geneva Conventions; and Additional Protocol II art. 4(2)(a).

		crossfire/non-targeted deaths, or death in the course of undertaking dangerous assignments; deaths resulting from indiscriminate and/or disproportionate attacks carried out by parties to an armed conflict
	-	Exclusions: Intentional homicide not amounting to war crime (0101); attempted intentional homicide not amounting to war crime (0102); nonintentional homicide not amounting to war crime (0103)

B. ENFORCED DISAPPEARANCE

Arrest, detention, abduction or any other form of deprivation of liberty of a victim by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, motivated by the victim, or someone associated with the victim, engaging in activities as a journalist, trade unionist or human rights defender, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the victim, which places the victim outside the protection of the law.¹⁸

02022 Deprivation of liberty Unlawful detainment of a person or persons against their will.	+	Inclusions: Enforced disappearance
	-	Exclusions:

See also, Jean-Marie Henckaerts and Louise Doswald-Beck for the ICRC, Customary International Humanitarian Law: Volume 1: Rules, (Cambridge, Cambridge University Press, 2005), rule 89 (applicable in both types of conflict).

¹⁸ See, Article 3, UDHR; Article 1(1), International Convention for the Protection of All Persons from Enforced Disappearance (ICED); Declaration on the Protection of All Persons from Enforced Disappearance. UNGA Res 47/133 of (1992); Article 2, ICED.

C. TORTURE

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a victim for such purposes as obtaining from them or a third person information or a confession, punishing them, intimidating them or coercing them, or was motivated in any other way by the victim, or someone associated with the victim, engaging in activities as a journalist, trade unionist or human rights defender, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other persons acting in an official capacity.¹⁹

11011 Torture Torture of a person.	+	Inclusions: Torture; other forms of cruel, inhuman or degrading treatment;
	-	Exclusions: Acts causing harm or intending to cause harm to the person not amounting to torture (02)

D. ARBITRARY DETENTION

Arrest or detention not in accordance with national laws, because it is not properly based on grounds established by law, or does not conform to the procedures established by law, or is otherwise deemed arbitrary in the sense of being inappropriate, unjust, unreasonable or unnecessary in the circumstances, and motivated by the victim, or someone associated with the victim, engaging in activities as a journalist, trade unionist or human rights defender.²⁰

02022 Deprivation of liberty Unlawful detainment of a person or persons against their will.	+	Inclusions: Arbitrary arrest or detention
	-	Exclusions:

¹⁹ See, ICCPR art. 7; CAT art. 1; ICERD art. 5(b); CRC art. 37(a); ICRMW arts. 10 and 16(2). Under art. 10(1) of the ICCPR, States also have a positive obligation to ensure that persons deprived of liberty are treated with humanity and respect for their dignity.

²⁰ Article 3, UDHR; Art 9(1) ICCPR, second sentence: "No one shall be subjected to arbitrary arrest or detention."

E. KIDNAPPING

<p><i>'Kidnapping'</i> refers to unlawfully detaining, taking away and/or confining a victim without their consent by persons or groups not acting with the support or acquiescence of the State, and the unlawful detention and/or confinement was met by a failure of due diligence on the part of the State in responding to the unlawful detention, such a failure motivated by the victim or associate engaging in activities as a journalist, trade unionist or human rights defender, corresponding to ICCS codes 020221 and coded herein as E [020221]</p>		
<p>020221 Kidnapping Unlawfully detaining or taking away a person or persons for the purpose of demanding an illicit gain, any other economic gain or other material benefit for their liberation or in order to oblige someone to do or not to do something.</p>	+	Inclusions: Kidnapping
	-	Exclusions: Abduction of a minor (02021); trafficking in persons (0204); illegal adoption (020291); taking a hostage (020222); apply all exclusions listed in 02022
<p>020222 Illegal restraint Unlawful detainment of a person or persons against their will (including through the use of force; threat; fraud or enticement), where the person is not transported to a different location.</p>	+	Inclusions: Hostage taking
	-	Exclusions: Abduction of a minor (02021); TIP (0204); illegal adoption (020291); forced marriage (020292); unlawfully detaining a person for the purposes of demanding an illicit gain for their liberation (020221); apply all exclusions listed in 02022
<p>020223 Hijacking Unlawful seizure of a vehicle or craft carrying among its passengers a journalist, trade unionist or human rights defender, through the use of force or threat of force.</p>	+	Inclusions: Hijacking of an aircraft, car, bus, ship or other motor vehicle
	-	Exclusions: Electronic or communication-related hijacking (0903); violence, detention, rape or depredation committed for private ends by the crew or the passengers of a private ship or aircraft directed on the high seas against another ship, aircraft or against persons or property on board a ship or aircraft (11012); theft of a motor vehicle or other types of theft (0502); robbery (0401); apply all exclusions listed in 02022

F. OTHER HARMFUL ACTS

<p>Acts causing harm or intending to cause harm to the victim, such as: rape, sexual assault and other forms of sexual violence; death threats; threats to physical or mental integrity; interference with freedom of opinion; undue restrictions of freedom of expression; interference with the media; hate speech and incitement to national, racial or religious hatred, denial of right of peaceful assembly; denial of right to form and join associations; interference with associations; and arbitrary or unlawful interference with privacy; by State actors or other actors acting with the State's permission, support or acquiescence who were motivated by the victim, or someone associated with the victim, engaging in activities as a journalist, trade unionist or human rights defender, or by persons or groups not acting with the support or acquiescence of the State whose harmful acts were either motivated by the victim engaging in activities as a journalist, trade unionist or human rights defender, and/or met by a failure of due diligence on the part of the State in responding to these harmful acts, such a failure motivated by the victim or associate engaging in activities as a journalist, trade unionist or human rights defender.</p>		
<p>0301 Sexual Violence</p> <p>Unwanted sexual act, attempt to obtain a sexual act, or contact or communication with unwanted sexual attention without valid consent or with consent as a result of intimidation, force, fraud, coercion, threat, deception, use of drugs or alcohol, or abuse of power or of a position of vulnerability.</p>	+	<p>Inclusions: Rape; sexual assault; other acts of sexual violence²¹</p>
	-	<p>Exclusions: Acts of abuse of a position of vulnerability, power or trust, or use of force or threat of force, for profiting monetarily, socially or politically from the prostitution or sexual acts of a person (0302); coercion (0205); prostitution offences, pornography offences and other acts against public order sexual standards such as incest not amounting to rape and exhibitionism (0802); assaults and threats (0201); slavery and exploitation not amounting to injurious acts of a sexual nature (0203); TIP for sexual exploitation (02041); harassment and stalking (0208)</p>
		<p>Inclusions: maltreatment through physical abuse or mental cruelty;</p>

²¹ This listing comes from the Rome Statute in relation to the commission of war crimes: Rome Statute arts. 8(2)(b)(xxii) and 8(2)(e)(vi). International humanitarian law instruments have not been as explicit in relation to all forms of sexual assault. However, there has been recognition that rape and other forms of sexual assault are expressly prohibited under international humanitarian law: too International Criminal Tribunal for the former Yugoslavia, Prosecutor v. Delalić and others, IT-96-21-T, Trial Chamber, Judgment, 16 November 1998, para. 476.

0219 Other acts causing harm or intending to cause harm to the person Acts that cause harm or intend to cause harm to a person not described or classified in categories 0201-0211		cruel, inhuman and degrading treatment not amounting to torture
110133 Sexual violence associated with armed conflict Acts of a sexual nature that are used as tactics of warfare as expressed in the Rome Statute and the Geneva Conventions (1949).	+	Inclusions: Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence associated with armed conflict and constituting a grave breach of the Geneva Conventions
	-	Exclusions: Sexual violence not amounting to war crime (0301); sexual exploitation not amounting to war crime (0302)
02012 Threat Any type of threatening behaviour if it is believed that the threat could be enacted. Threatening behaviour, at minimum, is an intentional behaviour that causes fear of injury or harm.	+	Inclusions: Death threats; threats to integrity ²²
	-	Exclusions: Using threat of force to demand a particular course of action from a person (0205); threatening a witness, justice or law enforcement official (08061); threatening voters to influence their vote (08071); threat of force to take property (0401); all injurious acts of a sexual nature (03); recruitment, transportation, transfer, harbouring or receipt of persons through the threat of force for exploitation (0204); apply all exclusions listed in 0201
0205 Coercion Demanding a particular course of action through the use of force, threat,	+	Inclusions: Coercive acts that constitute interference with freedom of opinion, undue restrictions of freedom of expression, interference with the

²² See, Committee on the Elimination of Racial Discrimination, general recommendation No. 15, para. 2; Report of the High Commissioner for Human Rights, Incitement to racial and religious hatred and the promotion of tolerance, A/HRC/2/6, paras. 36-41; Report of the Special Rapporteur on freedom of opinion and expression, E/CN.4/2002/75, paras. 62-64.

<p>intimidation, threat to reveal compromising information, or threat of defamation. Defamation as described in 0209.</p>		<p>media, denial of right of peaceful assembly, denial of right to form and join associations, interference with associations.</p>
	-	<p>Exclusions: Procuring sexual acts under coercion and any injurious acts of a sexual nature (03); taking property through the use of force, threat or threat of force (0401); trafficking in persons (0204); slavery and exploitation (0203); assaults and threats (0201); acts intended to cause fear or emotional distress (0207); threatening a witness, justice or law enforcement official (08061); threatening voters to influence their vote (08071); defamation or insult (0209).</p>
<p>0208 Acts intended to induce fear or emotional distress</p> <p>Fear or emotional distress caused by a person's behaviour or act. Emotional distress, at minimum, is mental or psychological pain.</p>	+	<p>Inclusions: Harassment and similar acts intended to induce fear or emotional distress and constituting interference with freedom of opinion, undue restrictions of freedom of expression, interference with the media, denial of right of peaceful assembly, denial of right to form and join associations, interference with associations</p>
	-	<p>Exclusions: Acts related to expressions of controlled social beliefs and norms (08032); intentional remark, action or communication (spoken or otherwise) by a person which harms another person's reputation, respect, confidence in which a person is held, or induces hostile or disagreeable opinions or feelings (0209)</p>

080322 Violations of norms on intolerance and incitement to hatred Unlawful expressions of intolerance and incitement to hatred.	+	Inclusions: hate speech ²³ ; incitement to hatred or violence ²⁴ ; use of ultra-nationalistic rhetoric to stigmatize defenders supporting refugees, minorities and migrants ²⁵ ;
	-	Exclusions: Unlawful expressions of intolerance and incitement to hatred by a person which harm another person's reputation, respect, confidence in which a person is held, or induce hostile or disagreeable opinions or feelings (0209); discrimination (0210); apply all exclusions listed in 08032
0210 Discrimination Distinction, exclusion, restriction, unlawful treatment or preference based on a status and activities as a journalist, trade unionist or human rights defender, which discourages or prevents equal recognition, enjoyment or exercise of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. ²⁶	+	Inclusions: Discriminatory acts that constitute interference with freedom of opinion, undue restrictions of freedom of expression, interference with the media, denial of right of peaceful assembly, denial of right to form and join associations, interference with associations, such as but not limited to judicial harassment, disproportionately harsh penalties resulting from fake or staged

²³ Hate speech – although not clearly defined in international instruments – encompasses the forms of incitement above, but is also used in a broader sense to include (negative or derogatory) speech about protected categories of people or groups.

²⁴ “Incitement” or “incitement to hatred” is used in this Entry as short-hand for the prohibitions in ICCPR art 20(2) and similar prohibitions in art 4 of ICERD, i.e., advocacy of national, racial or religious hatred when it amounts to incitement to discrimination, hostility or violence.

In the context of incitement violence refers to “the use of physical force or power against another person, or against a group or community, which either results in, or has a high likelihood of resulting in, injury, death, psychological harm, maldevelopment or deprivation.” (Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/67/357, para. 44(f).)

²⁵ See, Report of the Special Rapporteur on the situation of human rights defenders, A/70/217. Para 71

²⁶ Discrimination is differential treatment which has the purpose or effect of impairing or nullifying equal enjoyment of human rights, based on prohibited grounds. Prohibited grounds of discrimination include all internationally recognized grounds such as race, colour, sex, religion, language, political opinion, national or ethnic origin, descent, property or “other status”, including disability, age, nationality, marital/family status, sexual orientation, gender identity, health status, place of residence or economic and social situation. [CERD art. 1; see also ICCPR art. 2(1); ICESCR art. 2(2); CAT art. 1(1); CRPD art. 2; CEDAW art. 1; Committee on Economic, Social and Cultural Rights, general comment No. 20, para. 7; Human Rights Committee, general comment No. 18, paras. 6 and 7. See also Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/67/357, para. 44(d).]

		trials; ²⁷ misuse of laws to improperly restrict actions by defenders; frequent hurdles designed to hamper the operations of the organizations they work for, including obstacles to their obtaining financing (especially from abroad) or to their registration or the renewal of their accreditation, or permission to organize some peaceful demonstrations. ²⁸
	-	Exclusions: Acts related to freedom or control of expression (0803)
0211 Acts that trespass against the person Unlawful and unwarranted intrusion of the privacy or other rights of a journalist, trade unionist or human rights defender.	+	Inclusions: arbitrary or unlawful interference with privacy such as but not limited to interception and recording of email and phone calls; ²⁹
	-	Exclusions: Invasion of computer data or computer systems that is not an intrusion upon a person's privacy (0903); unwanted following, watching or communication of a person by another person (02082); invasion of sexual privacy or other acts of a sexual nature (03); trespassing on property (0509)

²⁷ See, Report of the Special Rapporteur on the situation of human rights defenders, A/70/217. Para 49

²⁸ Ibid, para 48

²⁹ See, Report of the Special Rapporteur on the situation of human rights defenders, A/70/217. Para 46

JOURNALISTS

Everyone who observes, describes, documents and analyses events, statements, policies, and any propositions that can affect society, with the purpose of systematizing such information and gathering of facts and analyses to inform sectors of society or society as a whole, and others who share these journalistic functions, including all media workers and support staff, as well as community media workers and so-called “citizen journalists” when they momentarily play that role,³⁰ professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere.³¹

TRADE UNIONISTS

Everyone exercising their right to form and to join trade unions for the protection of their interests.³² A trade union is an association of workers organized to protect and promote their common interests.³³

HUMAN RIGHTS DEFENDERS

Everyone exercising their right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at national and international levels,³⁴ including some journalists and trade unionists.

³⁰ A/HRC/20/17, para 4

³¹ Human Rights Committee, General Comment 34, para 44

³² UDHR, Art. 23, 4, supplemented by ICESCR, Article 8

³³ ILO, Glossary on Labour Law and Industrial Relations (with special reference to the European Union) (Geneva, 2005) p 250

³⁴ Article 1, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UNGA Res 53/144, A/RES/53/144

VERIFIED CASE

The term “verified case” refers to a reported case that contains a minimum set of relevant information on a person, which have been reviewed by mandated bodies, mechanisms, and institutions and provided them with reasonable grounds to believe that that person was a victim of human rights violations or abuses.

There is a human rights violation or abuse where there are reasonable grounds to believe that the case concerns (a) an action or omission attributable to the State under international law that (b) constitutes a breach of an international human rights obligation of the State. The term “attributable” means that an act or omission has been performed by a State actor or by other actors acting with the State’s permission, support or acquiescence, or where there is failure of due diligence with respect to that act or omission; “reasonable grounds” means that the factual elements of the incident have been corroborated or supported by information that would satisfy an objective observer that such an incident has occurred; and “international human rights obligations” refer to State obligations under ratified human rights treaties and other relevant sources of international law.