

1- Please indicate the profile of victims that you have identified that are differently vulnerable to and impacted by the activities and violations committed by mercenaries, mercenary-related actors, and PMSC

The mandate of the Victims' Rights Advocate aims to ensure that the rights and dignity of victims are prioritized in all efforts of the United Nations system to prevent and respond to sexual exploitation and abuse by its personnel, uniformed or civilian, in peacekeeping, humanitarian and development settings or perpetrated by non-United Nations implementing partners or troops serving under a Security Council mandate.

The objective of the mandate of the Victims' Rights Advocate does not extend to the victims of activities and violations committed by mercenaries, mercenary-related actors and private military and security companies (PMSC).

However, the abuses and challenges faced by victims of sexual exploitation and abuse are common to victims irrespective of whether the perpetrator is related to the United Nations.

In the context of the mandate of the Victims' Rights Advocate, the victims are women, men, girls and boys the United Nations has pledged to protect and assist.

2- Please explain the types of human rights violations identified, the context in which they take place (e.g. extractive industry, detention, migration setting, armed conflict) and the resulting differentiated impacts on the specific groups identified (e.g. indigenous peoples, migrants, woman, children, human rights defenders, victims of trafficking, minorities, elder persons).

The scope of the mandate of the Victims' Rights Advocate is sexual exploitation and abuse which may occur in peacekeeping, humanitarian and development settings, at Headquarters and in the field. These wrongs cause harm and suffering to victims which can be long-lasting or life changing. Many are left with children. They have profound negative impact on communities in the short and longer term. They also normalize these misconducts, suggesting they are permissible and create an 'exploitation economy' which remains after the personnel have left. They fracture trust among populations, undermining United Nations' credibility and legitimacy.

3- Please indicate the existing challenges in gathering disaggregated data, with variables on gender, age, profile of victims of human rights abuses by mercenaries, mercenary-related actors, and PMSC that allow accurate documentation and reporting on these cases.

Data on victims of sexual exploitation and abuse perpetrated by UN personnel are limited, but available on the United Nations website (<https://www.un.org/preventing-sexual-exploitation-and-abuse/content/data-allegations-un-system-wide>). The data are

generated by reports from victims and witnesses. Victims and witnesses often do not report because of they do not know how to do so, are fearful that they will not be believed or are discouraged from doing so through reprisals or inducements. Legal support may not be available, or they may not be able to afford lawyers, or those they can afford are often unprepared and not experienced. Realization of accountability through legal process is complicated as the country of jurisdiction is usually not the country where the alleged wrong occurred. Civil claims, such as paternity/child support claims are similarly difficult.

4- Please detail existing initiatives working to promote human rights and denouncing violations committed by mercenaries, mercenary-related actors, and PMSC. Please explain the challenges faced in gaining access to the victims, as well as documenting reporting and denouncing the violations.

In the context of the victims within the mandate of the Victims' Rights Advocate, initiatives include the formulation of a Victims' Rights Statement designed to ensure victims know their rights and serve as a common point of reference for anyone working for the United Nations. Plain language, multiple language, and child-friendly versions of the Statement and disability inclusive formats, in line with the United Nations Disability Inclusion Strategy will be developed and disseminated widely.

The Victims' Rights Advocate is establishing a roster of lawyers and legal aid organizations able to offer *pro bono* legal assistance to victims of sexual exploitation and abuse by United Nations and related personnel in administrative, civil and/or criminal proceedings based on a methodology developed through system-wide consultations in 2021.

A Victims' Rights Statement could also be issued for victims of mercenaries and the idea of a roster of *pro bono* lawyers and legal aid organizations could be considered to provide support to victims of mercenaries, mercenary-related actors and private military and security companies.

Victims of sexual exploitation and abuse face several challenges which might affect their decision on reporting such abuses. They are afraid of not being heard or believed when they report, negative response from or impact on their communities, marginalization, discrimination, stigma or exclusion they might experience, possible retaliation from or inducements from the perpetrators and concerns about any children born as the result of that abuse might be treated. Often they do not know how to report or who they can trust.

- 5- Please explain the challenges faced by humanitarian actors and peacekeeping missions in providing protection to victims of mercenaries, mercenary related actors and PMSC, how can the protection mandate towards these victims be reinforced, and what synergies can be developed with human rights actors in this context, particularly in light of the Secretary General's Call to Action for Human Rights

Senior Victims' Rights Officers, who are full-time officers on the ground deployed to operationalize the mandate of the Victims' Rights Advocate in the Central African Republic, the Democratic Republic of the Congo, Haiti and South Sudan make a real difference to the lives of victims through their work. Accordingly, inclusion of a victims' rights advocate in protection mandates for victims of mercenaries should be considered. Their terms of reference should mirror the framework and scope of those of the Senior Victims' Rights Officers and the UN Victims' Rights Advocate.

Examples of the difference the presence of someone tasked to ensure that victims' rights are prioritized and to whom they can turn confident they will advocate on their behalf include:

- At the height of implementation of COVID-19 mitigation measures, when United Nations staff were working remotely and face-to-face interaction was impossible, the advocates arranged urgent medical care, including childbirth and psychosocial support for victims through trusted implementing partners. They kept track of victims and the support they received through calls and texts, even as they moved across countries and borders.
- The advocate in the Democratic Republic of the Congo was embedded in January 2021 in the investigations carried out by the UN Office of Internal Oversight into the cases relating to the Ebola response. The advocate was present in that context not to investigate, but to provide victims with emotional and practical support and follow-up information. This was replicated in the Central African Republic where the advocate supported the Office of Internal Oversight across the country to provide emotional support and ensure victims' rights were upheld.
- The advocate in Haiti has spearheaded action to resolve 38 pending paternity/ child maintenance claims relating to former MINUSTAH personnel, including mobilizing pro bono lawyers in country of jurisdiction.

Actions such as these help restore dignity of victims and reestablish their trust in the United Nations and its personnel, but trust is easily lost, so the support provided to them must be sustained despite resource and other constraints. Accordingly, advocates, such as the Senior Victims' Rights Officers should be resourced so victims' legitimate expectations can be met.

6- Please describe the main challenges and barriers in ensuring that victims of mercenaries, mercenary- related actors, and PMSC have access to justice. Please elaborate on any specific and differentiated impact faced by groups in a vulnerable situation in accessing justice and in fulfilling their right to remedy.

The main challenges faced by victims of UN personnel include weak legal frameworks and systems, difficulties in determining the site of jurisdiction and evidentiary and

procedural complexities. Most victims cannot access legal assistance and even where they can, legal assistance providers may not have the skills required to address transnational legal processes or claims. Paternity/child support claims in respect of children born of sexual exploitation and abuse are particularly complex as their resolution involves claims against fathers in jurisdictions outside that of the mother and the child. Even where such claims are successful, their enforcement may be extremely difficult. These difficulties can be mitigated by providing the mothers and children with capacity-building directed towards economic and educational sustainability to help victims rebuild their lives.

7- Kindly provide information on victims' access to information including on their rights, the legal procedures, legal representation, and existing remedial mechanisms.

On support and assistance to victims of sexual exploitation and abuse perpetrated by UN personnel, the General Assembly adopted in 2007 the Comprehensive Strategy on Assistance and Support for Victims of Sexual Exploitation and Abuse (A/RES/62/214 (Annex). The Strategy provides that assistance and support for complainants/victims comprise medical care, legal services, support to deal with psychological and social effects of the experience and immediate material care, such as food, clothing, emergency and safe shelter. Assistance and support to resolve paternity/child support claims related to these misconducts are also envisaged.

The Strategy indicates that the duration of the provision of assistance and support should be set in accordance with individual needs directly arising from sexual exploitation and abuse.

It is based on the understanding that support should be delivered through existing programmes. Further, while it establishes the entitlements of victims, it does not include funding for their realization. Usually, victims of sexual exploitation and abuse are directed to programming for victims of sexual and gender-based violence. This is underfunded and is often non-existent in crisis and remote areas. It is of variable quality and sometimes service providers do not understand the specific needs and requirements of victims of United Nations personnel, such as reporting obligation and the higher duty of care we owe victims of our own staff. Legal assistance for victims is rarely available, and the Victims' Rights Advocate's roster of legal aid organizations and lawyers aims to address this problem.

8- Please provide information on the measures in place to protect victims, witnesses including whistle-blowers of mercenary, mercenary-related, and PMSC abuses and violations from reprisals, threats or harassment when seeking access to justice. What are the main challenges encountered by victims participating in judicial proceedings against mercenaries, mercenary-related actors, and PMSC?

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Victims and witnesses of sexual exploitation and abuse by United Nations and related personnel frequently do not report because of fear of reprisals, threats or harassment or withdraw reports as a consequence of such action which may be perpetrated or instigated by the offender or the families or communities of the victim. Measures to protect victims/witnesses may be implemented by United Nations and State entities and civil society, including national human rights institutions and similar bodies. Domestic whistle-blower policies and protections may be helpful, but may not exist in the countries where the acts occur.

The challenges encountered by victims of sexual exploitation and abuse by United Nations and related personnel in participating in legal proceedings, which are likely to affect victims within the mandate of the Working Group on Mercenaries, are addressed in the answers to questions 3, 4 and 6. Importantly victims and witnesses are not usually parties to criminal proceedings and may not have a voice in these processes. They may not be able to attend the proceedings because of procedural rules or lack of resources to do so. Civil proceedings may provide opportunities for the participation of victims and witnesses, but resources may be required to fulfil these, and they may be unavailable.

9- What measures can be taken to support victims and their representatives? What measures can be taken to protect victims and witnesses from intimidation and reprisals?

The presence of the Senior Victims' Rights Officers who are dedicated to champion the interests of victims and whom they can trust can contribute to creating a safe environment for victims, their representatives and witnesses, as can United Nations human rights and child protection officers.

Among the efforts of the Victims' Rights Advocate is a focus on raising victims' awareness about their rights and how they can claim them. These efforts have been conducted both in respect to sexual harassment and sexual exploitation and abuse.

Where the former is concerned, the Victims' Rights Advocate together with representatives of the World Bank is leading a workstream of the United Nations Chief Executives Board Task Force on Addressing Sexual Harassment within the Organizations of the United Nations System aimed to design a strengthened, consistent and victim-centered approach to addressing sexual harassment. Results include the finalization of a set of principles on a victim-centered approach to confronting sexual harassment to and as the development of a survey able to gather feedback from victims on their experience of using formal or informal complaint pathways.

The Victims' Rights Advocate has also developed methodologies to gather feedback from victims of sexual exploitation and abuse on assistance received and services accessed. Information elicited will be used to improve current approaches.

10- In the country where your organization works, what are the existing national reporting mechanisms, that enable victims, community members and/or civil society organisations to file complaints in case of alleged human rights abuses committed by mercenaries, mercenary related actors and PMSC; what are the existing remedial mechanisms. What measures have been put up by states to recognize the priority of victims' rights to assistance, protection, and to effective remedies?11-Please detail on relevant jurisprudence, good practices, or landmark cases, concerning mercenaries or PMSC-related abuses or violations that demonstrate effective access to justice and remedies for victims of mercenaries and PMSC or otherwise.

Various reporting pathways have been established by United Nations entities and their civil society partners to encourage victims and witnesses of sexual exploitation and abuse to come forward. These include complaint boxes, web-based mechanisms, mobile phone applications and community-based complaint networks or mechanisms which facilitate reporting appropriate to the cultural context. The Victims' Rights Advocate has observed that victims and witnessed report to those they trust. Where Senior Victims' Rights Advocates are deployed, victims and witnesses frequently come forward to them.

12- What do you consider appropriate approaches to seek accountability for human rights violations committed by PMSC and mercenaries, and mercenary related actors?13- What efforts can be made to increase and secure the accountability of mercenaries, mercenary related actors and PMSC at a local level, in particular what effective structures and legal frameworks should be put in place to make mercenaries and PMSC accountable for their actions, abuses and violations?14- In the case or situations where victims cannot seek justice and remedy domestically particularly in the absence of an effective judicial system or when state authorities are accomplice to the abuses how can other jurisdictions (for instance home jurisdictions for PMSC, or universal jurisdiction) take up prosecution or at least offer a forum for complaints, including the exercise of extraterritorial jurisdiction or other models of international cooperation, including international legal cooperation

As in the case of victims of sexual exploitation and abuse by United Nations and related personnel, realization of accountability of perpetrators through legal avenues can be complex, particularly as the site of jurisdiction is usually not the site of the exploitation and/or abuse. The United Nations cooperates with States of jurisdiction and encourages the strengthening of national legal frameworks, including those which provide for extraterritorial jurisdiction, to facilitate accountability.

15- Please explain what additional non-judicial measures should be taken towards the realization of the wider rights of victims, including measures to secure truth and justice for victims, reparations and guarantees of non-recurrence (including truth commissions, people's tribunals, formal and informal traditional proceedings, armed group courts) Please provide any examples of such processes where mercenaries, mercenary related actors, and PMSC were the perpetrators.

In the context of sexual exploitation and abuse by United Nations and related personnel, the wider rights of victims have been addressed through projects financed through the Secretary-General's Trust Fund in Support of Victims of Sexual Exploitation and Abuse funded by voluntary contributions of Member States and fines or withheld payments related to personnel with substantiated allegations of sexual exploitation and/or abuse. Trust Fund projects finance capacity-building activities to support income-generation for victims, education for children born of sexual exploitation and abuse, psychosocial and legal support. Victims particularly appreciate the capacity-building activities. These allow them to sustain themselves, their children and families and regain respect within their communities.