MANUAL ON human rights MONITORING

Chapter **08**
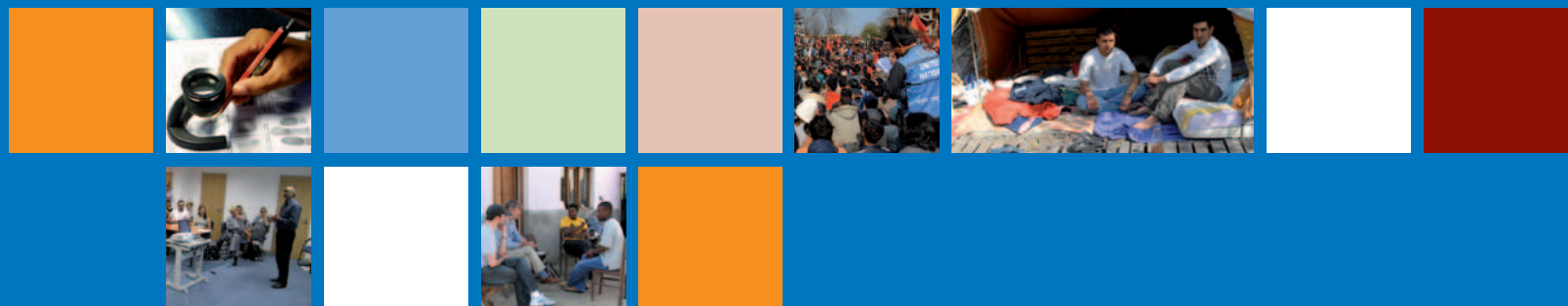
ANALYSIS

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

ANALYSIS

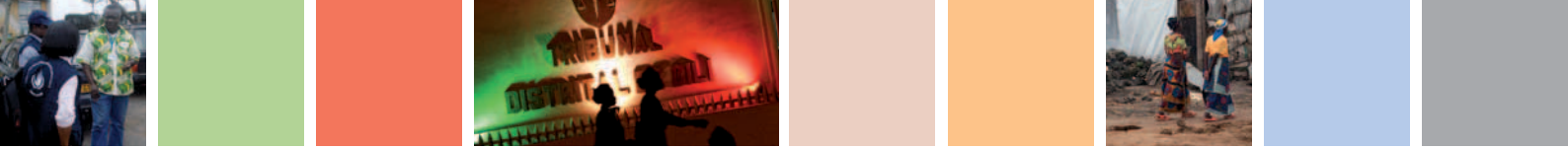## A. Key concepts

- **Heads of human rights field presences and human rights officers are involved in different levels and types of analyses, which should be complementary.**

  - A broader national or thematic analysis guides the design of a field presence's overall strategy to protect human rights and the choice of priorities for action.
  - Human rights officers (HROs) undertake local or case-focused analysis of specific human rights problems, which contribute to the overall analysis of the field presence.

- **At a minimum, analysis should involve a broader understanding of the cultural, historical, political, gender, socio-economic context and factors that contribute to a human rights problem.**

- **Human rights officers should pursue a rigorous approach to analysis, to ensure that all key aspects of a human rights problem are taken into account, including existing policies and legal framework; root causes of violations; power relations and influence of key actors; identification of the main responsibilities for violations at different levels; strengths and weaknesses of the affected individuals/groups/communities; and willingness and capacity of a State to redress the problem.**

- **Engagement in constant analysis is necessary to detect changes in the human rights situation and to modify the strategy to correct a problem accordingly.**

B.   Introduction

United Nations human rights field presences are part of the global effort of OHCHR to advance the protection and promotion of human rights. The OHCHR plan of action[1] and Strategic Management Plan[2] provide a framework for a field presence to develop its country strategy. The country strategy is also based on the country or regional context. For a field presence that is part of a United Nations peace operation, the strategy needs to take into account the mandate of the peace operation as well.

In developing its country-specific strategy, a field presence needs to analyse the context carefully. This chapter explains the importance of carefully analysing various aspects of problems related to civil, cultural, economic, social and political rights. It highlights the need to understand the actors that can have an impact on solutions, in the short, medium and long run. The chapter proposes a step-by-step model for approaching complex human rights problems, which will guide both the field presence in its development of strategies as well as the individual HROs (see chapter on *Strategic planning for human rights impact* 📖).

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1   See A/59/2005/Add.3.
2   The High Commissioner's Strategic Management Plan (SMP) articulates the priorities, expected accomplishments and strategies of OHCHR on a biennial basis. For the current SMP, see www.ohchr.org.
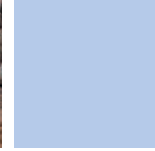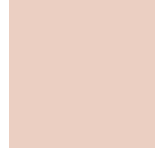
C. Why analyse?

Any attempt to have a constructive impact on a human rights problem[3] must be guided by a thorough understanding of the context and the factors that contribute to it. The analysis of the problem guides the design of a strategy and the choice of priorities for action.

Essentially, analysis is the *road map* on which a field presence chooses a route to a solution: it creates the organic connection between the information gathered[4] and the strategic decisions taken to address human rights problems.

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3   The term "human rights problem" is a generic term used throughout the *Manual* to cover many issues, some of which may amount to a human rights violation. For example, a policy negatively affecting the enjoyment of human rights, a weak State institution or a failure to protect and fulfil human rights can all be considered human rights problems.
4   The process of gathering information is covered elsewhere in this *Manual* (see chapter on *Gathering and verifying information*).

D. What kinds of analyses?

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Analyses

Many kinds of **analyses** are dealt with in different parts of this *Manual.* For instance:

- Analysis of the general environment and context in the country (see chapter on *Gathering contextual information* 📖).

- An overall economic, social and political analysis of human rights problems, looking at causal factors, mechanisms and motivations, in order to frame the strategic choices of field presences in approaching the problem (covered in this chapter).

- Analysis of actors, institutions, policies and practices contributing to human rights violations, and how they can be influenced (covered in this chapter).

- Analysis of State structures and policies – existing or lacking (covered in this chapter).

- Analysis of the gaps or capacities of different parts of society, institutions and the international community to address or influence the problem (see chapters on *Engagement and partnerships with civil society* 📖 and *Engagement with national authorities and institutions* 📖).

- Analysis of human rights information to determine general trends and patterns, including statistical data and indicators on violations gathered in monitoring activities and from other sources (see chapter on *Gathering and verifying information* 📖).

- Legal analysis of cases or incidents of human rights violations to determine the occurrence of a violation, identify missing information and establish an investigative strategy on a particular case.

- Gender-sensitive analysis to interpret data and information about the general context, actors, institutions, policies and structures as well as given human rights problems from a gender perspective. This requires the collection of data disaggregated by sex and age (see chapter on *Integrating gender into human rights monitoring* 📖).

The analyses listed above may be applied not only to a national situation or a cross-cutting theme, but also to local problems and specific cases. Heads of field presences and HROs are involved in different levels and types of analyses, which should be complementary. Thus, analysis carried out by individual HROs to plan and do their work shall be *guided by* and *contribute to* the overall national analysis by the field presence.

Analyses undertaken by field presences at various levels should always reinforce each other: the broader, national or thematic analysis helps to identify cases and design corrective strategies to more specific problems, while local or case-focused analysis contributes to the understanding of national or thematic trends. For example, by monitoring and following up individual cases of detainees, an analysis can be made of the overall situation in specific detention facilities or regions.

The design of strategies to protect human rights requires at a minimum broader political, economic, social and gender-sensitive analysis, in particular:

(a) An understanding – over time – of power and influence, and the root causes of human rights violations;
(b) An identification of the main responsibilities;
(c) An assessment of resources available in the country, their distribution, budget allocation;
(d) An insight into the way policies are adopted and implemented; and
(e) An evaluation of the State's capacity and willingness to redress the particular human rights problem.

HROs have to acquire a comprehensive picture of power, gender and other relations, as relevant, involving all groups of the population, including, as much as possible, marginalized and discriminated groups.

While making a gender analysis, HROs should take into consideration not only gender relations but also other factors of vulnerability such as ethnicity, economic status or sexual orientation, since they help to analyse the link between the functioning of social structures and unjust action. For example, a gender analysis would consider if policies are gender-, race-, class-neutral not only in intent, but also in practice.

From this broader analysis, HROs should then **identify those structures and individuals responsible for violations at different levels,** and **map out channels for applying pressure or offering incentives and support to influence or change their behaviour**.

Cambodia

In addressing forced evictions, the OHCHR office in Cambodia analysed the situation and then identified a range of actors bearing responsibility for or having the ability to influence the issue. The office has engaged in a dialogue with the Municipality of Phnom Penh and property development companies to encourage respect for the law and human rights standards, and to try to prevent forced evictions. At the same time, it developed a United Nations country team (UNCT) common policy position on resettlement and evictions, setting out principles to guide the work and cooperation with the Government on these issues, based on Cambodian law and international standards. On the basis of this common UNCT policy position, the office offered support to the Government to develop national guidelines for evictions and resettlement. It also engaged in advocacy with donors to foster support for these initiatives.

A subtle analysis of the way institutions responsible for (or condoning) human rights violations function, of their motivations and internal organizational realities can help identify points of contact that will be responsive to pressure or interested in positive incentives. Since each institution or actor is unique, so too must be the analysis. For instance, the channel of influence for the ministry of health will be different from that of defence, which in turn will differ for a non-State armed group, and so on.

Institutional and personal behaviour is affected by a variety of factors, including complex historical, social, political, economic, familial, cultural, gender or ethnic dynamics, business competition and

corruption. Therefore, to identify the most effective strategy, an analysis has to evaluate the relative importance of all the different factors at play.

Darfur (Sudan)

To plan a human rights protection strategy in Darfur (Sudan), the varying motivations and histories of the many ethnic groups and tribes, as well as the role of the regional environmental and economic degradation in the conflict, need to be analysed. Because of local complexities, an analysis by national HROs and other experts with extensive knowledge of local realities is essential.

The potential impact of a field presence deployed over a large area lies partly in its capacity to adjust its strategies to take into account local realities. Cultural, economic, social and political realities may vary from one region to another; local governments can be a supportive actor in one province and an obstacle in a neighbouring one; patterns of discrimination in access to basic services can vary from one locality to the next. Whenever the field presence's analysis encompasses these variations, its local impact and the cumulative national effect are greater.

Sudan

When the human rights component of the United Nations Mission in the Sudan (UNMIS) was set up, it developed its strategies by taking into account regional variations. On the basis of the mandate of OHCHR and the United Nations peace operation, one strategy was adopted for dealing with the human rights violations arising from the conflict in Darfur; a distinct strategy was adopted for the sectors that came under the Government of south Sudan established as a result of the peace agreement; a different strategy was adopted for the transitional areas where administrative structures were yet to be established because of disputes over boundaries; and a separate strategy was adopted for dealing with north Sudan, including the capital, since it involved dealing with authoritative structures and policies that had an impact on all other regions.

Field presences must also **analyse the international actors and institutions that can advocate compliance with human rights obligations** by those responsible for violations. This requires effective liaison between the field presence, the leadership at headquarters and key actors in the international community. Human rights field presences that are part of a peace operation should also consider the possible influence of other components of the peace operation and their analyses.

Crucially, an analysis of international actors and institutions should include an understanding of the varying powers of influence of the different diplomatic delegations on the ground – and use them in the resulting protection strategy. Field presences should also pay special attention to third countries that have a close interest in the country, be they neighbours, regional powers or key economic partners.

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Bringing pressure to bear

An analysis of the situation in certain countries should take into account the pressure that bilateral or multilateral donors, regional human rights mechanisms and influential Governments can bring to bear on the Government, for example to investigate alleged human rights violations in the country. Such pressure may take the from of on-site missions and emergency meetings, cuts in military support and training funds, denying visas to State officials for private travel to their country or limiting their opportunities for training abroad.

The dynamics of human rights violations change over time. Other forces at work[5] can yield improvements or setbacks that are independent of a field presence's actions. Therefore, a field presence needs to constantly analyse changes as they happen so as to adapt its strategies.

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5 "Forces at work" refers to those actors – typically but not exclusively non-State actors – who can positively or negatively influence rights holders and duty bearers in a State in relation to an issue or policy. They include economic, social and political interest groups or power blocks (religious leaders, business entities, NGOs, media, etc.), embassies, neighbouring countries, donors, and international agencies. See also actor mapping in section F.

The legal and political structure of international institutions and the methods they commonly use are primarily designed to influence Governments. Although there are fewer explicitly legal tools applicable to non-State actors responsible for abuses, many of the same political, pressure and promotional strategies aimed at correcting a human rights problem could also be applied to non-State armed groups. If an armed group is in some way allied with or supported by the State, yet exercises a sufficient level of autonomy through its own interests and strategies, it should be treated as a separate, independent actor.

The application of strategies to confront abuses by armed groups presumes the ability to analyse them. Groups operating clandestinely do not make information readily available and direct contact with them is often prohibited or dangerous. Nevertheless, information is always available somewhere, as are people who understand how these groups function. A field presence should make an effort to find such people. If it cannot make direct contact, it should use indirect sources, always taking care not to endanger them.

If a field presence underestimates the sophistication and sensitivity of armed groups, avoids potentially constructive contact in the appropriate form or dismisses the possibility of leverage on independent groups, it is unlikely to develop the analytical and strategic resources to influence them.

Within the constraints of its mandate and legal presence in a country and where relevant to the context, a human rights field presence should strive to learn about the functioning of armed groups within or outside the country that are affecting people's ability to enjoy their human rights. Other field presences in ceasefire or negotiation settings may sometimes have easier access to non-State armed groups and their experiences have shown that these groups have many different political sensitivities and points of leverage. For example, given its unique legal status and access, the International Committee of the Red Cross (ICRC) is particularly knowledgeable about armed groups and, while it necessarily maintains due confidentiality in this role, it could potentially find appropriate ways to advise other field presences based on its experience.

E.   How much analysis?

Analysis is a rigorous process that takes time and requires skills. Therefore, heads of field presences, supervisors and HROs need to build time in their work plans to this end and, in practice, also allocate sufficient time to analysing new information or changes as events unfold.

Larger field presences may have *highly skilled analysts* among their staff, whose work underpins the overall strategies and can assist field offices and individual HROs in analysing their respective situations and strategic approaches to human rights protection.

Similarly, field presences may also have *thematic specialists* to assist in this process: some field presences have appointed focal points for specific themes or recruited short-term consultants with thematic expertise to guide the work of HROs. For example, OHCHR-Nepal has appointed gender, child rights and police focal points, who provide specific analysis in their areas of expertise.
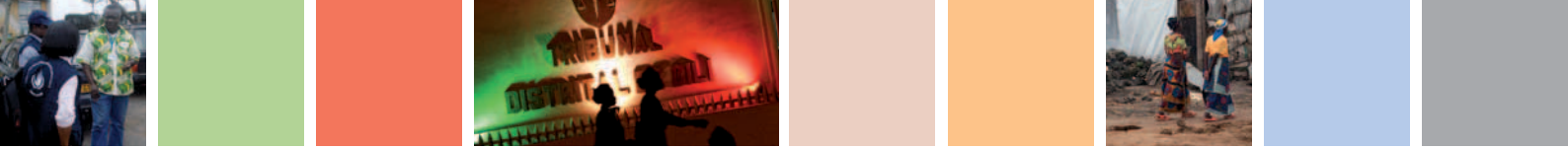
Despite the challenge faced by smaller field presences with limited staff, all HROs must contribute, at different degrees, to the analysis. They should make a judgement call on how much analysis is needed and strike a balance between information gathering and analysis, while remembering that the **purpose of analysis is to inform action**, not to replace it.

Given their resource constraints, field presences should take advantage of the analysis capacities of other national and international actors and institutions, such as national human rights institutions (NHRIs), civil society, the United Nations country team, other components of peace operations (e.g., civil affairs, political affairs, Joint Mission Analysis Cell, military and police components). However, analysis made by others should not replace a human rights analysis, but rather complement it.

Mexico

Although equipped with very limited resources, OHCHR-Mexico coordinated a collective effort to undertake a wide-ranging "national diagnosis" of the human rights problems in Mexico. The process – which provided a thorough assessment and concrete recommendations – brought together civil society, academia as well as governmental institutions in a unique, collective analytical process. The diagnosis encouraged new connections among multiple actors for continued follow-up and collaboration, and contributed to the design of the office's overall human rights strategy in the country.

F.   A proposed method for analysis

There is a wide variety of tools and models available to help field presences organize information and interpret it systematically. Depending on the context and the personal skills of HROs undertaking the analysis, some tools will work better than others. The analytical tools in this section propose a methodology that integrates the strengths of several different ones.[6]

Regardless of the model chosen, **HROs should take a rigorous and conscious approach to analysis**, which looks at the whole range of civil, cultural, economic, political and social human rights. This ensures that all key aspects of a problem are taken into account in developing strategies, and that a coherent analysis can be made and shared with various components of the field presence in order to fully understand and implement the resulting strategies.

Experienced HROs may have already developed their own intuitive or personalized approaches to analysis. The model described below does not intend to replace such wisdom and experience, but rather effectively complement them.

This methodology calls for:

- An **analysis of the human rights problem**, including normative standards violated, important for developing strategies for reducing or ending the violation and establishing accountability;
- An **analysis of the risk or impact of the human rights problem examined**, so that an effective strategy could be adopted for dealing with all its dimensions;
- An **analysis of the relevant and influential actors** so as to examine their potential for intervention, influence and assistance.

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6   The proposed model draws in part on: (a) the *gap analysis*, based on the four gaps categories of the OHCHR Plan of Action: security gaps, commitment gaps, capacity gaps and knowledge gaps; (b) the *risk equation tool*, differentiating the threat, vulnerability, commitment and capacity components of human rights risks (expanded from other versions of this tool available in *Protection: An ALNAP Guide for Humanitarian Agencies* (London, Overseas Development Institute, 2005)); (c) an *actor mapping tool* developed for the Protection Standby Capacity Project of the Office for the Coordination of Humanitarian Affairs (OCHA).

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The different stages of analysis

Stage 1: Overview of the problem: causes, effects, norms and gaps
1.1   Identify and articulate the human rights problem or pattern of abuse
1.2   Identify relevant actors, institutions and policies with respect to the problem being addressed
1.3   Identify and analyse the consequences or impact of the human rights problem, including on specific individuals or groups of individuals
1.4   Identify the legal/normative implications of the problem

Stage 2: The human rights risk equation
2.1   Analyse the threats
2.2   Analyse the vulnerabilities of rights holders
2.3   Analyse the commitment of duty bearers to addressing the human rights problem
2.4   Analyse the capacities of rights holders and duty bearers
2.5   Devise a strategy to reduce the risk

Stage 3: Actor mapping
3.1   Identity actors and forces at work
3.2   Create an actor map for the specific human rights problem

The two case studies in annexes I and II at the end of this chapter illustrate the three stages of analysis in real-life situations.

Stage 1: Overview of the problem: causes, effects, norms and gaps

Analysis begins with a general review of the human rights problem that is being studied. HROs should be able to identify the following issues and answer some of the questions indicated below.

■ **Identify and articulate the human rights problem or pattern of abuse**
    ☐ Which are the main human rights problems or patterns of abuse?
    ☐ How does the problem or pattern of abuse relate to international human rights norms and standards (and international humanitarian law, if applicable)?

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Colombia

When conducting analysis, the OHCHR-Colombia office combines a thematic approach with a regionalized one. While an HRO in charge of a thematic issue follows the patterns of a violation nationally, other HROs based in the field follow regional and local developments. By putting these perspectives together, the Colombia field presence can better understand how overall patterns of violations play out differently from one region to another.

- **Identify the relevant actors, institutions and policies with respect to the human rights problem being addressed**
  - ☐ Who are the rights holders?
  - ☐ Who are the relevant duty bearers?
  - ☐ Who (if any) are the persons, groups or institutions directly responsible for the violation, either by their actions or by their omissions?
  - ☐ What policies are reinforcing, encouraging or failing to protect against the violations? Which protective policies are missing?

- **Identify and analyse the consequences or impact of the human rights problem, including on specific individuals or groups of individuals**
  - ☐ Whose exercise and enjoyment of human rights are affected? Which and how many rights holders are affected? How are they affected? What types of disaggregated data are available (e.g., sex, age, disability, ethnicity)?
  - ☐ Does the human rights problem limit duty bearers' capacity to meet their obligations?
  - ☐ Considering that human rights are interrelated, what additional rights may be at risk as a result of the initial human rights problem?

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Interrelated rights

An example of interrelated rights: if an existing State's policy and practice limits women's access to own or rent property and, therefore, deprives them of any proof of residency, their right to vote or to work may also be denied. Similarly, without access to secondary education, a large number of the population in poor countries will not benefit from an equal opportunity to access and use public information about their rights or to be elected.

- **Identify the legal/normative implications of the human rights problem**
  - ☐ What are the applicable national, regional and international human rights laws and standards?[7]
  - ☐ What are the specific legal obligations of duty bearers? These should include relevant recommendations arising from United Nations human rights treaty bodies, special procedures mandate holders, regional human rights mechanisms and national case law. HROs should also specify the different obligations that may exist at different levels of authority.
  - ☐ Which human rights are being violated?

Stage 2: The human rights risk equation[8]

The next step in analysing a human rights problem is to break it down and look at its different aspects, including the many causal and contributing factors. If these aspects are understood separately they allow for multiple interventions and solutions to address or redress the problem.

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7   The Rule of Law in Armed Conflict Project (RULAC) is a useful web-based tool developed by the Geneva Academy of International Humanitarian and Human Rights Law that offers up-to-date analysis of the implementation of applicable international law in armed conflict as well as a global overview of the relevant legal regimes (international criminal, humanitarian, human rights and refugee law) for each country in the world. See www.adh-geneva.ch/RULAC.

8   The human rights risk equation has been adapted from the risk analysis tool presented in Enrique Eguren, *Protection Manual for Human Rights Defenders* (Front Line, 2005), pp. 17–22.

The following method for analysis – the human rights risk equation – is a tool for distinguishing among four distinct aspects of a human rights problem (and its related risk): (i) threat, (ii) vulnerability, (iii) commitment and (iv) capacity.

In this context, each component can be defined as follows:

(a) **Risk** is understood as the *intensity and damage or harm resulting from a given human rights problem or as the likelihood that a <u>human rights problem or violation</u> will occur* (if the violation has not yet taken place);

(b) **Threat** constitutes the part of the problem related directly to the *behaviour or character of <u>perpetrators, institutions or structures responsible for the violation</u>*, for example:

– The motivations and interests, relevant political, military or economic strategies prompting the violation by these actors;
– The character of the institutions or structures (political, economic, cultural or other) that may be causing the violation (for example, apartheid laws, land laws or discriminatory health policies);
– The gaps in institutions, structures and policies that directly result in violations of human rights (for example, the lack of teachers or schools, which infringes on the right to education, or the lack of policies prohibiting discrimination);

(c) **Vulnerabilities** are components of the problem that are more closely linked to the *identity, situation, choices or actions of the <u>victim(s)</u> and those exposed* to the threat;

(d) **Commitment** takes into account the *will of the <u>State</u> (and other actors) to address or stop a human rights problem*, for example:

– Factors motivating the State to intervene (or not) and abide by its obligation to respect, protect and fulfil all human rights;
– Factors motivating or preventing the State from adopting and enacting appropriate legislation and policies;
– Factors motivating other sections of society not to take action (e.g., a majority group unwilling to address the concerns of a minority);

(e) **Capacities** are both the *strategies and assets of <u>duty bearers</u> to address human rights problems as well as the strategies that <u>rights holders</u> may possess, or could develop, to reduce the threats and vulnerabilities*. These include the positive protective capacities or structural weaknesses of States, as well as the coping strategies and real capacities of victims and human rights proponents.

These aspects can be visualized graphically through the use of an equation.

$$RISK = \frac{Threat \times Vulnerability}{Commitment \times Capacity}$$

The next equation illustrates the kinds of changes that will reduce the risk. In fact, the **risk can be diminished by** *reducing the threat, reducing the vulnerability, increasing the commitment or increasing the capacity.* **The risk is lower if the likelihood, the quantity and the intensity of the harm is reduced**.

$$\downarrow \text{RISK} = \frac{\downarrow \text{Threat} \times \downarrow \text{Vulnerability}}{\uparrow \text{Commitment} \times \uparrow \text{Capacity}}$$

Each component of the human rights risk equation is described in more detail below, together with ways to influence them in order to reduce the overall risk.

1 Analyse the source of the threat and reduce it

Threat analysis helps to understand the *commission of human rights violations* or the deliberate *failure to act* (omission) that results in a violation. It is, therefore, important to **look at the actors, institutions and policies directly or indirectly responsible for the violation**.

HROs should map out any direct or indirect links that may exist between the State, non-State actors and the violation: clarify whether there are specific actors or institutions that are responsible (including chains of responsibility) and their obligations and, if so, *who* has influence or authority over them and what are their motives and objectives in committing such violations.

The *violation could also be the outcome of broader structural factors*, such as the implementation of specific policies, existing customary laws and practices, corruption or entrenched discrimination against specific groups. **In these cases, the threat analysis should focus on those actors who have key responsibilities in promoting such practices or policies.** It is important to recognize, for instance, that a State's failure to ensure many rights often constitutes more than merely a gap or lack of capacity to deliver. There are often deliberate political and social factors that create or reinforce abusive practices or prevent protective structures from functioning.

This may include finding out if the authorities themselves are pursuing policies directly leading to violations (e.g., economic development policies used to justify violations of economic, social and cultural rights – such as forced evictions, appropriation of land), are systematically depriving specific groups of their rights, are indirectly linked to other parties responsible for violations, or if the authorities get any benefit from the direct perpetrators or the policies that allow them.

An analysis of threats also needs to include factors such as discrimination; control over access to participation; deliberate marginalization and its contributing legal, social and economic factors; control over geographic access or mobility; and abusive social or cultural practices.

For instance, HROs could consider these questions:

■ Is there direct or indirect discrimination against victims in certain spheres of life? By whom? What social, legal, cultural or economic factors contribute to that discrimination?
■ Is the behaviour of the perpetrators or abusive institutions motivated by gender discriminating attitudes, practices or opinions?
■ Are opportunities and access to participate and to be represented in public affairs limited and/or controlled? Who controls them and what factors reinforce this control?
■ Are certain groups excluded and/or marginalized from economic, social, cultural and other development opportunities, policies and plans? By whom? How? What political, legal, social or economic factors reinforce this marginalization?
■ Are development opportunities captured and controlled by certain actors? Which ones?
■ Is accessibility to basic rights limited to certain geographic areas or groups? If so, why?
■ Are there social, cultural or religious practices that lead to a violation of rights? What are their roots and functions?

In all cases, the threat analysis identifies *whose* action or inaction contributes to this threat, and what forces could have an influence on them to change their behaviour. That said, the objective of the threat analysis is not simply to identify those responsible for violations, but also to understand the underlying forces and mechanisms which could reveal other avenues of intervention for corrective action.

Democratic Republic of the Congo

While looking into a series of violations that at first appeared to be the result of "ethnic rivalry" between two armed groups, the human rights component of the United Nations Mission in the Democratic Republic of the Congo (MONUC) found out, upon closer analysis, that the root cause of the problem was a long-standing land dispute among different economic groups (pastoralists and agriculturalists), exacerbated by corrupt government practices and the absence of a culture of rule of law. Therefore, the human rights component was able to identify actors and forces that had an impact on the immediate threat (the armed groups responsible for the ongoing violations), but also those actors who could positively or negatively contribute to addressing the underlying land dispute through land reforms.

Based on its analysis, a field presence – alone or in partnership – can reduce the threat by finding ways to influence or affect the behaviour and decisions taken by those responsible for human rights violations, for example through:

■ Advocacy and intervention with the authorities;
■ Political or other pressures (also indirectly through influential actors);
■ Education and awareness-raising;
■ Capacity-building and technical cooperation;
■ Support to reforms and new policies, legislation and structures;
■ Public denunciations (could change the cost-benefit of the violation);
■ Accountability mechanisms and prosecution (e.g., vetting processes, indictments by the International Criminal Court).

❷ Analyse the vulnerability of rights holders and reduce it

Note that vulnerability cannot simply be equated with vulnerable groups. You need to analyse, in the context in which you work, what makes someone vulnerable or a victim of human rights violations. It is not sufficient, for example, to simply identify internally displaced persons (IDPs) as a vulnerable group: an analysis of their vulnerability would need to evaluate, for instance, whether they live in an area with sufficient infrastructure and whether they have a cohesive community structure to defend their interests vis-à-vis the authorities.

Individuals or groups can be more exposed to threats due to discrimination, marginalization and exclusion based of many factors, such as:

- Ethnicity or other identity factors;
- Gender identity;
- Age;
- Disability;
- Geography (inhabitants of a specific area, location, neighbourhood affected by the human rights problem);
- Legal status (e.g., refugees, irregular migrants, stateless persons);
- Economic status (poor or extremely poor, low-income, unemployed, homeless, etc.);
- Educational and literacy level (illiterate, lack of education, etc.);
- Health status (persons living with HIV/AIDS, other diseases, etc.);
- Occupational group (occupation stigmatized by others, etc.);
- Social, cultural and religious status (status of targeted minorities; practices specific to cultural behaviour and religion that differ from the majority; persons living in informal settlements, indigenous peoples, etc.)
- Political factors (non-representation, under-representation, holding political beliefs viewed negatively by others, etc.);
- Participation in or membership of certain groups or associations;
- Role played in the community.

Uganda

An analysis undertaken by the OHCHR-Uganda office on the human rights situation in the north of the country indicated that, while the Government's strategy of gathering the local population into IDP camps did reduce their vulnerability to attacks by the Lord's Resistance Army, it created a considerable humanitarian crisis and much suffering in the camps.

When someone is at risk, it is human nature to devise alternative mechanisms and find ways of protecting oneself, family members and other community members to the best of one's ability.

Some of these strategies are:

- *Getting out of the way* – flight, hiding, displacement, avoiding certain locations, etc.;

- *Changing behaviour* – reducing activities that might provoke the threat, changing certain attitudes or hiding relationships, reducing the time of exposure to a particular threat;
- *Complying with or accommodating an abuser's demands;*
- *Developing capacities to reduce vulnerability* (see section on *capacities* below).

Colombia

In Colombia, several indigenous communities living in the area of Sierra Nevada de Santa Marta adopted different approaches at different times when faced with the constant presence and threat of paramilitary and armed groups. While they initially denounced the violations publicly, they later decided to remain silent due to increased acts of retaliation. With time, as the violations against them continued, these indigenous groups decided to break the silence and speak out again, as they felt that their silence did not protect them from being targeted and even gave the wrong impression that the situation had improved.

A vulnerability analysis should consider the impact of these changes, which needs to be taken into account when devising strategies aimed at reducing this factor:
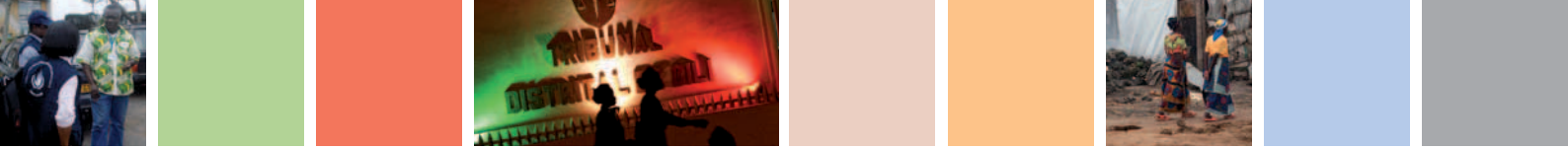
- Are these adaptations to the threat making a difference?
- What are the positive aspects of these mechanisms?
- How long can people sustain them?
- What new risks do these coping strategies present?
- Are men and women vulnerable in a different manner to the threat? If so, how?

HROs need to consider the different factors of vulnerability and the steps that people are already taking to reduce them, in order to better identify how a field presence can further reduce these vulnerabilities or support individuals or communities in their own strategies to confront a threat. Additionally, by analysing if and how threats affect women and men differently, they can help devise strategies tailored to their specific situation.

3 Analyse and increase a State's commitment to addressing a human rights problem

Commitment and *capacity* are closely linked, but need to be distinguished in analysis. For instance, a State's apparent incapacity to implement specific legislation, policies or measures to respect, protect and fulfil the right to free compulsory primary education for all may not be simply due to a lack of resources. Rather, it could be a symptom of: a lack of commitment by powerful sections of society or the State to address the problem or an unwillingness to give priority to especially vulnerable children, including those with disabilities, whether living in urban or in rural places. Considerable efforts to strengthen a State's capacities can be wasted if there is no commitment to using them.

When analysing commitment, it is necessary to differentiate among actors within the State apparatus: some will be more sensitive than others to calls to fulfil their obligations. The lack of commitment or collusion of other State actors will inevitably pose a great challenge to those whose commitment might be activated.

Uganda

When OHCHR-Uganda analysed discrimination against sexual minorities in the country, it noted that national legislation actually provided for equality and non-discrimination. Nevertheless, the legislation was undermined by discriminatory statements by high-level officials, demonstrating a serious lack of commitment.

Commitment is a relevant factor for all duty bearers. State actors and influential non-State actors (e.g., commercial interests) may seek to create divisions within a group of rights holders in order to weaken their collective position.

Cambodia

An analysis of a number of communities facing forced eviction that OHCHR-Cambodia monitored revealed that the authorities and private development companies employed "divide and conquer" tactics, seeking to "buy off" key community members in order to weaken the overall bargaining position of the community resisting forced eviction.

Even when the State is not directly responsible for violations, there can still be serious problems of commitment from its side. The following questions about the commitment of duty bearers can help to guide your analysis and to devise strategies for increasing this commitment:

- Are the authorities influenced, pressured or manipulated by powerful groups, inhibiting their commitment to protecting, respecting and fulfilling their human rights obligations?
- Are duty bearers lacking the authority to act? If so, why?
- Are those sections of society affected by violations represented within the Government? Or is the State dominated by other groups?
- Do duty bearers take positive steps to show their compliance with the human rights entitlements of rights holders?
- Do duty bearers (publicly) commit to upholding human rights and show any readiness or willingness to address human rights issues? Has their professed readiness gone beyond words to concrete actions? Or do they rather show inertia, indifference or hostility towards human rights?
- Are commitments made by duty bearers in response to human rights problems affecting women and men differently?
- Do duty bearers integrate human rights into their overall priorities and strategies?
- Do duty bearers allocate sufficient funds to social investment policies? If so, do they really disburse the promised resources? Are sufficient resources allocated to human rights programmes in the national budget, particularly those that would benefit the most vulnerable sections of the population?
- Are duty bearers responsive to communications and requests from international and regional human rights mechanisms (e.g., special rapporteurs, regional courts, the United Nations Human Rights Council)?
- Are there any accountability mechanisms or procedures in place to assure that duty bearers meet their obligations? Are there incentives or sanctions?

■ Are there any individuals or institutions within the State apparatus that are themselves threatened by this pattern of violation, or at risk if they try to confront it? Would *commitment* in such cases be dangerous?

Example

An analysis in an African country revealed that due to the absence of police in some diamond-producing provinces, private security companies owned by high-level State officials were inappropriately carrying out policing functions, leading to human rights abuses. When the human rights field presence analysed how to encourage the establishment of a legitimate police presence in those areas and approached the Minister of Interior, it became evident that close links between diamond companies and the Government were impeding the deployment of national police. Thus, private interests were limiting the State's commitment.

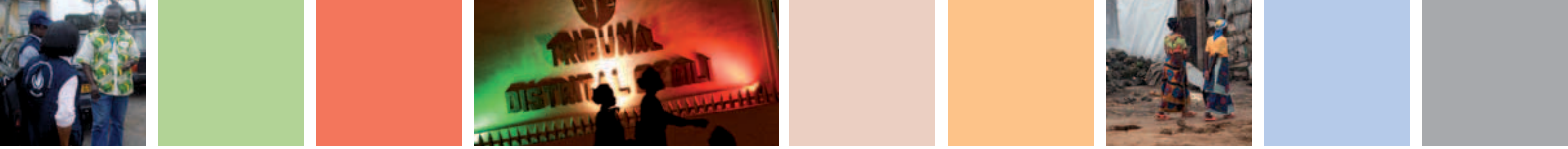### 4 Analyse and strengthen rights holders' and the State's capacities

The *capacity* component of the risk equation has two parts: one relates to the capacities of individuals or groups of rights holders, civil society actors or those affected by a violation to mobilize allies to reduce threats or protect themselves; the other refers to the capacities of the State to respect, protect and fulfil its human rights obligations. **The analysis should clarify whether and to what extent rights holders and duty bearers are able to engage to take advantage of these potentially complementary capacities.**

(a) Rights holders and civil society capacities
The first step in this analysis is to **understand who the different rights holders are and whose capacities are most relevant**.

The following questions may help in this analysis:

■ Are there any civil society organizations that effectively represent or work with rights holders?
■ Are there influential community leadership structures (official or traditional)?
■ Do people trust civil society organizations or their own leadership structures? What is their perception about them (positive or negative)? What is the view of different groups in the community (e.g., women or youth groups)?
■ Can rights holders organize and participate in public life and the political process? Can they advocate policy change?
■ Can they claim, seek and obtain redress on rights affected or denied? How are they pursuing these objectives?
■ What obstacles are they facing?
■ Are they dispirited and disintegrating, or united and proactive?
■ Do rights holders and civil society organizations have knowledge about (their) human rights? Is their level of education an obstacle to recognizing them? How familiar are they with duty bearers' obligations?
■ Do they know how to claim their rights? Do they know how to use existing legal remedies and which institutions could help them protect their rights?

Communities, individuals and civil society organizations may have a variety of positive capacities and assets to protect their rights. These can include their community strength and unity, access to information and analysis of the risks they face, advance planning capacity to prepare for risks, political skills and alliances to react to threats, negotiation skills, ability to affect public opinion, legal skills or other thematic expertise relevant to the problems, infrastructure capacity, and so on.

Guatemala

When Guatemalan refugees returned to their villages from Mexico, they organized themselves in community farms, to avoid working alone on their parcels of land and increase their sense of security. They also established networks of communications to alert members of the community and react to incursions by armed groups or other dangers.

It is essential for field presences to diagnose what these local strategies and capacities are, in order to ensure that their own protection strategies can effectively complement them. They should also seek to understand and strengthen positive local mechanisms, capacities and assets of both rights holders and duty bearers to deal with a human rights problem.

Not all rights holder strategies have a positive impact. Individuals and communities are making difficult choices, some of which may have serious negative impacts or side effects. In some cases, those affected by the violation may not be making any effort to address it. This could be due to hopelessness, a sense of futility, a lack of awareness of rights or a belief that the violation they are suffering is normal. Other rights holders in society, who are not directly affected by this violation, may have no interest in seeing change happen. In other cases, a violation which affects only certain sections of society may simply be invisible to the rest.

(b) State capacities

Taking into account the previous step of analysing a State's commitment, field presences should **identify any gaps as well as positive State capacities for the implementation of its human rights obligations that could be strengthened or used more effectively**.

In doing so, HROs should ascertain whether the State or other duty bearer has:

- The necessary authority (i.e., the mandate, power and legitimacy) to respect, protect and fulfil human rights;
- Sufficient human, financial, organizational or other resources;
- Sufficient knowledge and expertise to address the human rights problem (e.g., specific expertise, training, legal skills, socio-economic analysis, understanding of potential response mechanisms and best practices);
- Gaps or limitations in its capacities to respond to threats, and whether these gaps or limitations affect women and men differently;
- An enabling environment (e.g., good domestic legal framework, implementation of domestic laws, equitable distribution of wealth and power in society, transparency, accountability of officials, access to information, mechanisms to fight corruption and impunity);
- Internal policy coherence and coordination between various duty bearers.

On the basis of the analysis of where the major capacity shortfalls lie, the field presence can devise coherent strategies aimed at increasing capacities, for example by contributing to the enhancement of policy coherence, the setting-up of coordination mechanisms, the strengthening of knowledge and expertise, the improvement of credibility and legitimacy, the amendment of mandates, and so on.

5 Devise a strategy to reduce the risk

To sum up, as field presences go through each of the four components of the human rights equation, they should **think about potential strategies, to be undertaken in close consultation with those that are likely to affect each component in order to reduce the overall risk**:
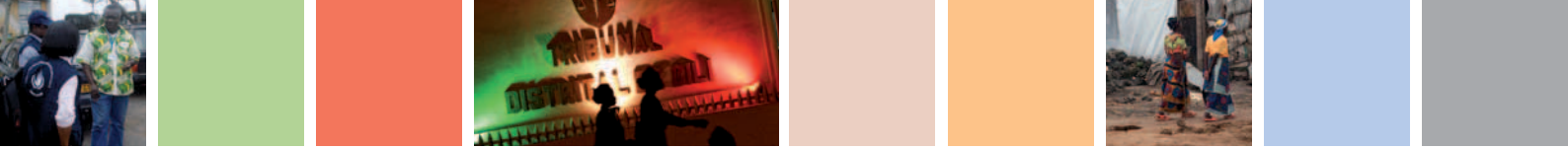
- What steps might reduce the threats?
- What steps could reduce the vulnerability of the targeted groups (including by empowering them further)?
- How could the field presence increase the State's commitment?
- What kinds of programmes and actions could strengthen civil society and State capacities to address or redress a human rights problem?

Nepal

OHCHR-Nepal's analysis of the vulnerability of human rights defenders, especially journalists, showed how many complex factors contributed to the high level of risk in carrying out human rights work in southern Nepal. The analysis showed that human rights defenders lacked both professional and specialized security-related training; that many held multiple functions in the community (e.g., being at the same time members of human rights organizations, journalists and political activists); and that the State, and in particular the police, was in many cases unable to provide adequate protection against armed groups and other non-State actors threatening human rights defenders because of their work. As a strategy, OHCHR-Nepal launched a series of special conflict-sensitive journalism workshops and training courses for those defenders working in the most affected areas. It also followed up specific cases with interventions targeting individuals, organizations and political parties that had influence over those groups issuing the threats. In some of the most serious cases, OHCHR-Nepal assisted local human rights organizations in organizing safe houses for threatened persons.

The human rights risk equation, like any model, is to some extent an oversimplification. In reality the four components interact in more complicated ways and are closely interlinked. Sometimes a capacity may just be the opposite of a vulnerability (e.g., the lack of secure transport adds to vulnerability: having secure transport is an asset or capacity). Similarly, *increasing capacities* should usually have a direct impact on reducing the threat by affecting the calculations of those responsible for the violations. For instance, if the potential victims win the visible support of a powerful partner or ally – such as a religious institution, the United Nations or a foreign Government – the costs of committing human rights violations against them may be significantly higher, diminishing the motivation of those responsible, who may not wish to offend these allies or face an intervention by a third party.

Non-State actors

The human rights risk equation tool places emphasis on the State's overall responsibility to respect, protect and fulfil its human rights obligations, and thus on assessing its commitment and capacity to intervene to prevent, address or redress a human rights problem. However, several aspects of this analysis model could also be used to assess the commitment and capacity of non-State actors when they are the source of the threat, in view of developing strategies to increase their commitment and capacity and reduce the overall risk to rights holders. For example, in an armed conflict, a field presence could analyse the commitment of armed groups to human rights and international humanitarian law standards and principles, and devise strategies aimed at increasing such commitment.

Stage 3: Actor mapping

Actor mapping is a common tool for understanding key actors, identifying and mapping out power relationships and channels of influence in relation to one or more human rights problems. It helps visualize key actors or stakeholders who have a potential or real impact on the human rights problem being analysed, and highlights the relationships among such actors. This tool also helps field presences and HROs to identify more easily and creatively where the opportunities for influence lie and subsequently guide their corrective action or advocacy strategies.

Influencing change on the ground is seldom a direct process. HROs rarely have the opportunity to simply identify perpetrators and tell them to stop a violation. Instead, a field presence's strategy to redress, reduce or prevent human rights violations usually requires the orchestration of a range of different actions and messages taken directly or through intermediaries who often have greater access and influence. This requires an analysis of these potential intermediaries and their relationships to each other.

▮ Identify key actors and forces at work

The first step in the actor mapping process implies a general identification of relevant actors linked to a human rights problem. Through the earlier stages of analysis as presented in this chapter, certain key relevant actors have already been identified. Actor mapping takes this further.

(a) Identify key rights holders
HROs should identify who is most affected by the human rights problem; the distinctive ways in which rights holders are affected; and the affected person's or group's entitlements.

HROs should then draw on the *capacity* analysis of the risk equation tool and focus on the following questions:

■ What civil society organizations or other leadership structures represent or advocate on behalf of the affected rights holders?
■ Which specific groups are not represented within the larger group?
■ What rights holder groups have significant influence or power?

(b) Identify specific duty bearers

HROs should determine who is responsible for taking the necessary steps to respect, protect and fulfil human rights, to set up redress mechanisms, and implement legal and other obligations relating to the human rights issues identified. **In the identification of duty bearers, HROs should be as specific as possible.** For instance, they should avoid listing "the State" as a single actor, but rather **differentiate several actors and clearly identify which State apparatus, organ, ministry, provincial or local government entity is responsible for implementation**. Similarly, non-State actors involved in human rights abuses may require a similar level of in-depth analysis. The *commitment* analysis presented above should help identifying the most promising actors.

(c) Identify perpetrators, institutions or other actors responsible for human rights violations

By drawing on the *threat* analysis in the risk equation above, HROs should identify those individuals, groups or institutions responsible for violations. To the extent possible, they should spell out the multiple levels of responsibility, be they direct or indirect.

(d) Identify other "forces at work"

HROs should identify those actors who have, or could have, a positive or negative influence on the issue or policy at hand, on those responsible for violations, as well as on rights holders' and duty bearers' capacities.[9] Such actors are known as "forces at work" and are typically but not exclusively non-State actors: they can be economic, social and political interest groups or power blocks – such as religious leaders, business entities, NGOs, the media – but also embassies, neighbouring countries, donors or international agencies, including the United Nations. Such forces have the power to influence rights holders and duty bearers within the State in relation to the human rights problem at stake, and have a fundamental duty to exercise their rights responsibly, even if their legal obligations with regard to international human rights law may differ from those of States.
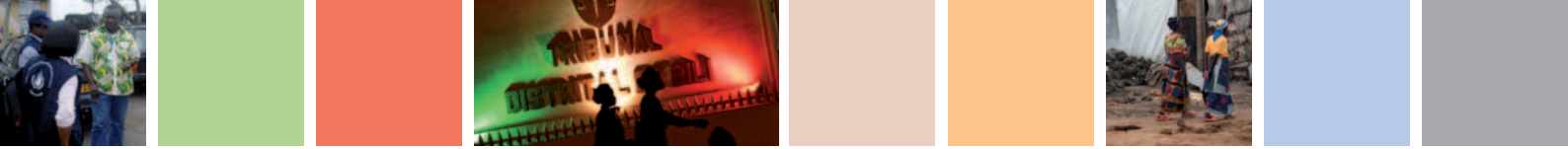
HROs should focus on the following questions:

- Which forces have a negative or positive impact on human rights in the specific situation identified?
- What are the interests and demands of the "forces at work"?
- How influential are they in relation to the particular human rights problem?
- Do they have a negative and/or positive impact on rights holders and duty bearers?
- What is their relationship with them?

(e) Identify potential allies

Another key part of any human rights analysis is to identify who actually, or potentially, has the desire and ability to protect people from the threats they are facing or to influence the institutions or policies causing the threat. Some of these actors may already have been identified under the earlier categories of duty bearers or "forces at work", but it is useful to also separate these potential allies. The ability of a State authority, organization, community or individual to address a human rights violation is determined by a mixture of the resources and partners available, their political attitudes and personal convictions.

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9   A single "actor" could conceivably fall within multiple categories of forces at work, depending on the angle from which a human rights problem is assessed (e.g., a particular government institution can be viewed not only as a cause of an identified problem, but also as part of the solution, as a duty bearer and as a rights holder towards a higher level of authority).

This identification process requires an examination of a range of actors: different organs of the relevant authorities, non-State actors, affected communities and victims, other States, multinational companies, international organizations, humanitarian and development agencies, human rights organizations, donor institutions and many others. In conflicts, this list could include military structures (of the army or of non-State armed groups), individual commanders and fighters, war-affected communities, etc.

This broad-ranging identification process helps field presences see where protective support exists, where it is being blocked, and how it might best be mobilized and strengthened.

2 Map the relationships among actors

Once the range of relevant actors to a specific human rights problem have been identified, HROs should then construct a more specific map of relationships in view of achieving a specific objective.

One graphic way of doing this is by arranging a series of "actor cards" and "relationship cards" on a large sheet of paper, to clearly identify key actors whose action or inaction shall be influenced in order to address a human rights problem – for example, the perpetrators or institutions which field presences want to persuade to act and stop an ongoing human rights violation, or an authority they wish to move towards positive action resulting in better human rights protection, filling legislative gaps or rectifying omissions.

To avoid the common mistake of ignoring or underestimating the influence of other important local actors, or of overestimating the role of international institutions, this model encourages HROs to **start by analysing the relationship among local and national actors first**. Once this is done, **they can incorporate the role of their field presence in the map, as well as that of other international institutions**.

The following steps help create a comprehensive map of actors:

i   Create an actor card for each identified key actor that needs to be influenced.

ii. On the card, describe the actor's identity, function, interests, motivations, power and influence on the human rights problem concisely, as shown in the illustration below. The purpose is to identify the primary interests, level of power and motivating factors for an actor's behaviour, be it an action or an omission.
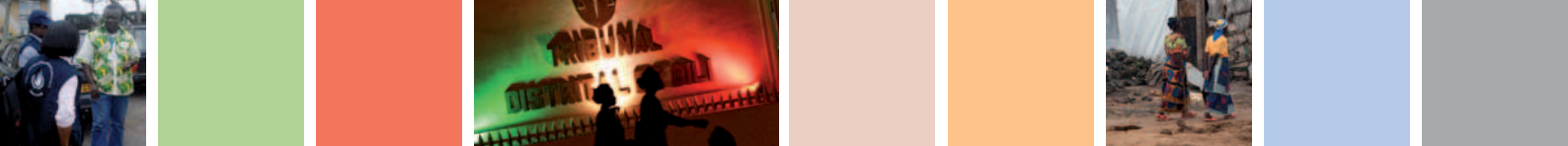
NATIONAL POLICE
- Corrupted and responsible for gross human rights violations
- Holds real power
- Wants to weaken peace process

iii. Create similar cards for other national or local actors who have the capacity to influence the human rights problem identified above – either positively or negatively. Once again, their main interests, power, motivation and influence on the situation have to be written concisely on the card.

iv. Place all actors' cards on a large piece of paper.

v. Draw lines – representing the key relationships – between the different actors.

vi. Focus on the most important relationships and place a card of a different colour or shape on the line between two actors.

MINISTER OF THE INTERIOR
- Exerts control over the police
- Formal commitment to improving human rights
- Lacks resources
- Vulnerable to political pressures

← Accountability
Exercise authority →

NATIONAL POLICE
- Corrupted and responsible for gross human rights violations
- Holds real power
- Wants to weaken peace process

vii. Describe in a few words on the card the relationship between the two actors, in particular its impact on the human rights problem and the potential influence the actors have on each other (for example, positive, negative, allies, enemies, direct authority, economic links, ambiguous, high/low influence, high/low polarization).

viii. Continue this process of identifying relevant actors and relationships until all key players who can or may influence this situation have been analysed.

ix. At the end, create an additional actor card illustrating the human rights field presence and situate it on the map.

x. Describe concisely the field presence's function, interests and influence on the human rights problem, then draw lines to other key actors representing critical relationships and describe these relationships.

xi. Similarly, create actor cards for other international institutions whose participation may be mobilized to affect the problem and place them on the map, following the same methodology.

See below a photo of what an actor map could look like.
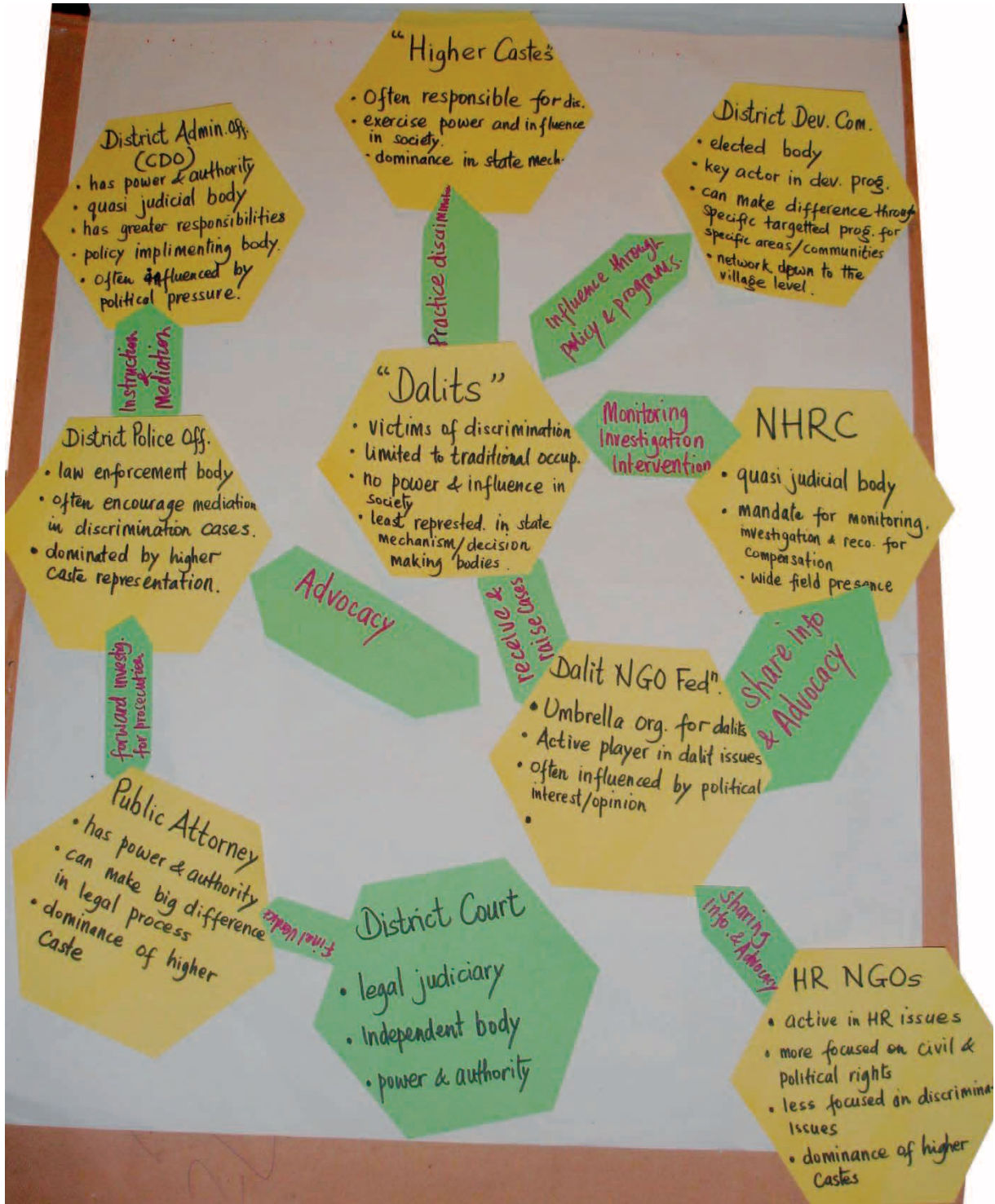
3 From mapping to analysis

Such actor mapping can be an ongoing process that is repeatedly expanded and improved as field presences learn more about the key actors on the scene and their relationships. At each stage, the mapping helps to identify knowledge gaps that will help inform additional information gathering.

Once the mapping is complete, there are a number of questions HROs can analyse. For instance:

- What are the possible reactions of the various actors to the human rights field presence's influence?
- What are the gaps in the field presence's knowledge?
- Have all key relationships that play a major role in the human rights dynamic been considered?
- What is the best route to influence the problem – through which set of actors? Who is best able to sway the actor whose behaviour should change?
- Does the specific relationship between certain key national actors pose challenges for a solution to the human rights problem?
- How should the field presence approach the various actors to improve each relationship?
- Which actors are considered to be the most likely current allies? Possible future allies?
- What are the limits to the field presence's actions/influence?
- Are there relationships that could facilitate a strategy to approach this objective and that the field presence has not yet established?

The map is not the end of the analysis, but it constitutes a powerful tool that can be developed over time in any given context to help in the design of advocacy and corrective action strategies (see chapter on *Strategic planning for human rights impact* 📖).

The human rights risk equation and actor mapping tools should reinforce and build on each other. For instance, the former illustrates where threats need to be reduced or where specific capacities need to be strengthened. The latter can be used to look more closely at the different forces and actors involved in the human rights dynamics that need to change. The resulting analysis should enable human rights field presences to eventually design nuanced strategies that respond effectively to the complex relationships on the ground that are causing or contributing to violations.

Annex I: Case study one

This three-step analysis applies to a country emerging from nearly 10 years of devastating conflict during which egregious violations of human rights and international humanitarian law were committed by all sides. The human rights field presence operates within a peace operation mandated under Chapter VII of the Charter of the United Nations and has a strong protection mandate, which includes cooperating with judicial efforts to end impunity and assisting transitional justice efforts.

Step 1: Overview of the problem: causes, effects, norms and gaps

The national army is among the main perpetrators of serious human rights violations throughout the country. Numerous alleged war criminals hold top positions in the army. Soldiers are badly paid and corruption is rampant. Most soldiers have been recycled from former belligerent groups and few have gone through professional training.

Contrary to United Nations principles on fighting impunity, serious human rights violations fall under the jurisdiction of the military judiciary. The military judiciary is subject to political and military interference. Impunity for past and present crimes is common.

Human rights officers are confronted with the challenge of increasing accountability within the army and making it more respectful of human rights. They also face a particular human rights crisis involving Battalion X, led by an alleged war criminal and deployed to an area of the country where the army is still endeavouring to dislodge rebel groups.

Step 2: The human rights risk equation

A. Analysis of the problem prior to any intervention by the human rights field presence	
Who (person or entity) or what (policy or practice) is causing or contributing to the <u>threat?</u> What motivations, interests or other forces at work are behind this threat?	**What makes someone <u>vulnerable</u> to this threat?**
■ Battalion X is led by a well-known alleged war criminal, who is protected by his superiors and is a recidivist. Previous attempts by military prosecutors to bring him to justice have failed due to political and military interference. ■ Soldiers of this Battalion regularly attack civilians, whom they accuse of siding with the rebels.	■ Battalion X is deployed in a remote area where the population – mainly composed of elderly people, women and children – has virtually no communication with the outside world and lives in extreme poverty. ■ The Battalion is composed of soldiers from an ethnic group that is a traditional rival of the ethnic group predominant in the area of deployment.

A. Analysis of the problem prior to any intervention by the human rights field presence (cont'd)

What is the level of <u>commitment</u> of key duty bearers to addressing the problem?

- The central Government has made a number of verbal commitments on human rights, but it has shown little will to take concrete measures and address impunity.
- In response to intense pressure by the international community, the newly appointed head of the army has shown some willingness to address impunity at some levels, though he is isolated and cautious about removing alleged perpetrators from key command positions in the army as they may become opponents.

What coping strategies and <u>capacities</u> are locals using to confront this threat?

- Rights holders have voiced their concerns through their traditional chiefs, who have accepted to provide information to human rights investigators.
- The population spends the night in the bush to flee from the attacks by Battalion X.

What State capacities can be drawn on?
- The military commander in the region has no effective control over Battalion X, whose commander is protected by senior officials in the capital. Moreover, he is already facing the challenge of fighting rebel groups and cannot afford the risk of Battalion X defecting.

B. Strategies for reducing the risk: suggested interventions by the field presence

How could the actor(s) or structure causing the threat be influenced to reduce the <u>threat</u>?

Short term
- Recommend to the local military regional commander the redeployment of the problematic Battalion to an area where there are no ethnic tensions with the local population. This is a measure that has no major political implications, but reduces the threat.

Medium to long term
- Continue to document human rights violations committed by Battalion X, which creates a cost for being seen violating human rights.

How could the <u>vulnerability</u> of rights holders be reduced?

Short term
- Together with humanitarian partners, national or international human rights NGOs and traditional chiefs, recommend the temporary deployment of peacekeepers in the area. This reduces the threat and the vulnerabilities of the local population, as it ends the isolation of the villagers and increases their protection.

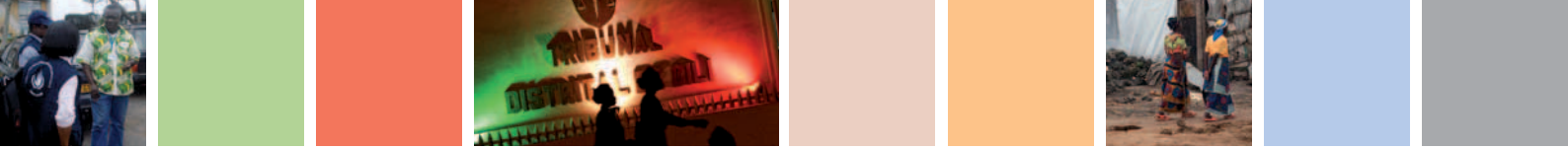### How could the <u>commitment</u> or political will of duty bearers be increased?

Medium to long term
- Empower Government and army insiders who are willing to take up human rights issues.
- Provide expertise to establish transitional justice mechanisms addressing individual accountability issues, such as credible vetting processes.
- Advocate a law that transfers competence over war crimes, crimes against humanity and genocide to civilian courts.

How could the coping strategies and <u>capacities</u> of locals be supported or enhanced?

Medium to long term
- Based on the Security Council's resolution, rally support from a critical mass of influential Governments and donors for the vetting and prosecutions of those most responsible for human rights violations, including the commander of Battalion X.
- Human rights training of army officers.
- Strengthen capacities of local community leaders, especially traditional chiefs, to enhance their role, through campaigns, workshops and training.
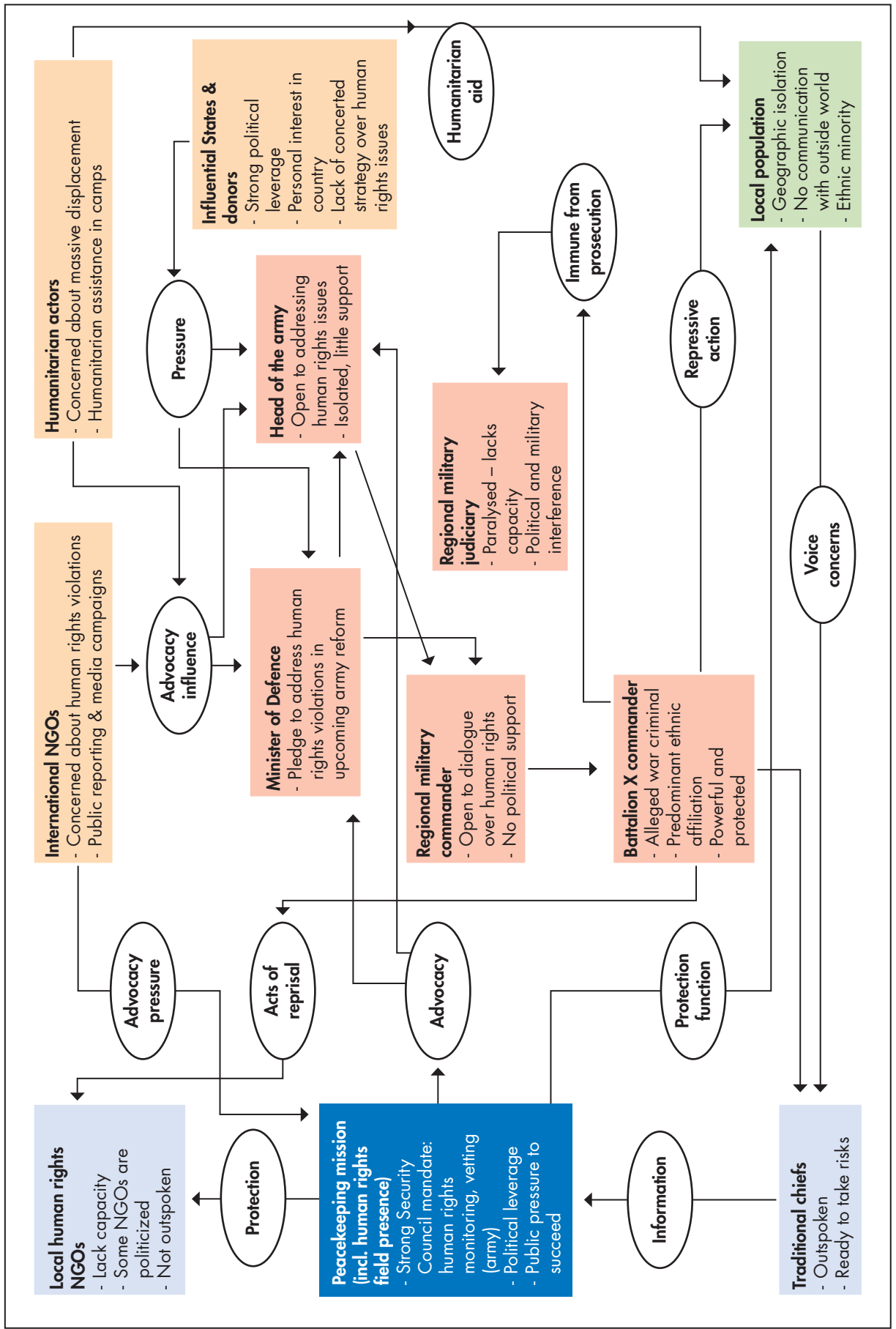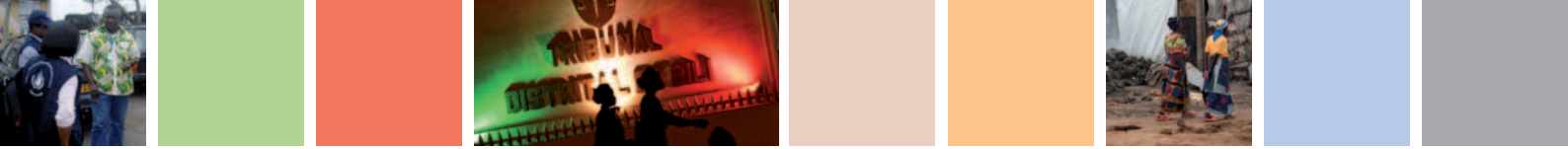
Step 3: Actor mapping

The following actor map [see overleaf] shows some of the main actors identified (rectangles) and some of the possible relations among those who might play a role in addressing the human rights problem (ovals). "Complex actors" – such as the national army – have been broken down into multiple components to distinguish nuances among their views: Battalion X commander, the local military regional commander and the head of the army and other senior officials.

- The *local population* lives in extreme poverty and in complete isolation from the rest of the country, due to the lack of communication, roads and transport.
- *Traditional chiefs* in the area are outspoken and willing to provide information.
- *Human rights organizations* in the region lack capacity, some are politicized and/or not outspoken for fear of reprisals.
- The *Commander of Battalion X* is a well-known alleged war criminal, who is protected by his superiors. Previous attempts by military prosecutors to bring him to justice have failed due to political and military interference.
- The *local judiciary* is paralysed because of its lack of capacity, and political and military interference.
- The *local military regional commander* is open to dialogue over human rights issues though he has no political support for draconian measures to end impunity.
- A number of *senior officials in the army*, including the *head*, are open to addressing human rights issues but they are isolated and have little support.
- The *Minister of Defence* has made pledges to address human rights violations in the forthcoming reform of the army.
- *International NGOs* have been urging the peacekeeping mission to fulfil its protection mandate.
- *Humanitarian actors* are increasingly concerned about massive displacement and the lack of protection of civilians.
- *Influential Governments and donors* do not speak with one voice and lack a concerted strategy over human rights.

This actor map brings in the *human rights field presence* as part of the *United Nations peacekeeping mission.* The Security Council's mandate of the mission calls for the intensification of efforts to end impunity and the vetting of key posts in the army.

Actor map

Humanitarian actors
- Concerned about massive displacement
- Humanitarian assistance in camps

Influential States & donors
- Strong political leverage
- Personal interest in country
- Lack of concerted strategy over human rights issues

Humanitarian aid

Immune from prosecution

Local population
- Geographic isolation
- No communication with outside world
- Ethnic minority

Pressure

Head of the army
- Open to addressing human rights issues
- Isolated, little support

Repressive action

International NGOs
- Concerned about human rights violations
- Public reporting & media campaigns

Advocacy influence

Minister of Defence
- Pledge to address human rights violations in upcoming army reform

Regional military judiciary
- Paralysed – lacks capacity
- Political and military interference

Voice concerns

Regional military commander
- Open to dialogue over human rights
- No political support

Battalion X commander
- Alleged war criminal
- Predominant ethnic affiliation
- Powerful and protected

Advocacy pressure

Acts of reprisal

Advocacy

Protection function

Local human rights NGOs
- Lack capacity
- Some NGOs are politicized
- Not outspoken

Protection

Peacekeeping mission (incl. human rights field presence)
- Strong Security Council mandate: human rights monitoring, vetting (army)
- Political leverage
- Public pressure to succeed

Information

Traditional chiefs
- Outspoken
- Ready to take risks

Annex II: Case study two

The human rights field presence (an OHCHR country office) is based in a low-income country with a high poverty rate and has both a promotion and a protection mandate.

Step 1: Overview of the problem: causes, effects, norms and gaps

The Mayor of a city is running for re-election in less than a year and is keen to fulfil his election promise to improve city services, increase development and growth, and create new employment opportunities for city residents. As part of his beautification plan for the city, he has issued an order to evict nearly 30,000 residents of a slum community in the city centre, close to the commercial district, which has to be executed within two months.

The Minister of Urban Development has approved a plan to develop a commercial area on the land currently occupied by the slum community. The project does not provide for the resettlement of the slum-dwellers. In addition, the Minister has stated that she would provide compensation only to those holding titles of ownership to the land. All others would be considered to be illegal occupants. Only 25 per cent of the slum-dwellers possess ownership titles.

More than half the residents are children, mostly under the age of 15, who attend school in or near the slum. The rest are women, young men and the elderly. There are various groups within the slum, including minority groups who have come to the city from rural areas in the past 15 years in search of work, educational opportunities and basic services.
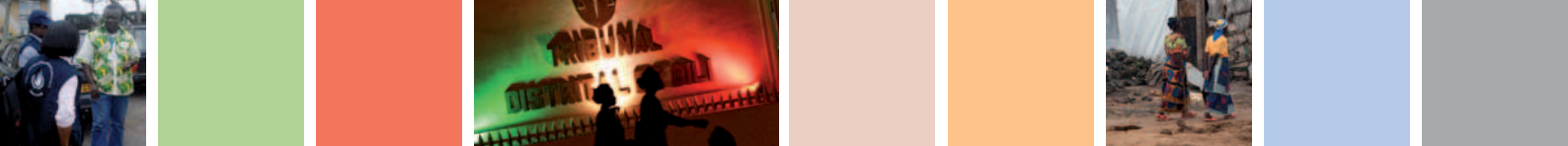
With the support of local human rights NGOs, the slum community leaders filed for a stay of eviction to the High Court, highlighting that the slum-dwellers had not been consulted and that no resettlement plans had been proposed to them. However, the High Court refused to grant the injunction on the grounds that it was a policy decision taken by the Mayor in the public interest. The NGOs and community leaders also alerted some parliamentarians, as well as officials in the Ministries of Health and Education, to the situation.

Some community members organized a big rally to protest against the proposed eviction. Although the rally was peaceful and local authorities had authorized it, the police used force to disperse the demonstrators and arrested the community leaders and some human rights NGO representatives. Since the rally, the police has prevented gatherings of ten or more people around the slum.

The community was not formally informed nor consulted while the plan for developing a commercial area was prepared and discussed, and learned about it through the press. If enforced, the eviction would lead to the relocation of slum-dwellers to the outskirts of the city and make many families homeless, since no alternative housing is being provided.
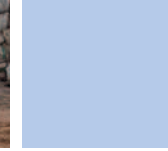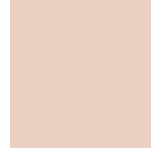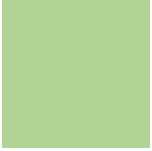
The actions taken by the local authorities violate several economic, social and cultural rights, in particular the right to adequate housing and not to be forcibly evicted, the right to education, the right to information and to due process of law. In addition, they violate the right to liberty and security of the person, freedom of assembly and movement. The slum community was also not given an opportunity to present its case to the authorities.

Step 2: The human rights risk equation

A. Analysis of the problem prior to any intervention by the human rights field presence

Who (person or entity) or what (policy or practice) is causing or contributing to the <u>threat</u>? What are the motivations, interests or other forces at work?	**What makes someone <u>vulnerable</u> to this threat?**
■ In the latest municipal elections, the Mayor had promised he would "beautify" the city and "move out" the slums to ensure development, growth and new job opportunities. He is interested in the project since it will enable him to fulfil his election promise and bring international investments and more commercial opportunities to the city. He wishes to be re-elected in the upcoming elections. He has the support of the elite, who are interested in the development of the land since it would open up business opportunities for them.	■ 75 per cent of the slum-dwellers do not have ownership titles to the land they have occupied for more than 15 years and are therefore not eligible for any rehabilitation scheme or for the announced compensation, making them more vulnerable in the event of eviction. Over the years, they have used their savings to build houses and set up small businesses, such as grocery shops, within the community. Eviction would destroy their lifelong savings.
■ The Minister of Urban Development has a personal interest in the project, situated in a prime area of the city on which the slum community is established. She is confident of raising large amounts of aid/loans from bilateral donors and a multilateral regional bank for the construction and commercial development of the site.	■ The women are employed within or near the slum, as teachers, administrative clerks, informal sellers, health personnel, domestic workers, etc. If evicted, many would lose their jobs as they would not be able to afford transport to the city centre. In other cases, their husbands or other male relatives would not allow them to travel long distances to work. Many women are heads of households and their families' sole breadwinners.
■ Some officials in the Ministry of Urban Development are alleged to be corrupt. The ruling party and the Minister consider the slum-dwellers to be pro-opposition and are keen to evict the community, so that opposition votes will be dispersed.	■ Despite some tensions, the slum-dwellers have been living together for almost 15 years, have established relationships and help each other. Eviction would scatter the residents.
■ Many construction companies are putting pressure on the Mayor and the Minister of Urban Development to pursue the project so that land will become available for the development of large construction projects.	■ There are a few health centres and primary schools in the community: the eviction would result in their destruction, thus affecting children in particular, and residents in poor health. The community also relies on nearby services (a local hospital and secondary schools) and would lose access to those.
■ The city's police commissioner has close relations with the elite and is under pressure from the Minister of Urban Development to take action against the slum community.	■ The eviction would also adversely affect elderly residents and those with disabilities.
■ The lack of a clear State policy about land tenure, evictions and resettlement creates a vacuum that is being exploited by the municipal authorities.	■ The State-owned media influence public opinion by portraying the slum community in a bad light.

A. Analysis of the problem prior to any intervention by the human rights field presence (cont'd)

What is the level of <u>commitment</u> of key duty bearers to addressing the problem?

- The central Government has ratified several international human rights instruments, but failed to integrate them into national legislation and policies. The national constitution recognizes several economic, social and cultural rights, and includes a provision on non-discrimination on any grounds.
- The Government has never adopted a housing policy, and there are no tenancy or tenant protection laws.
- The central Government pays attention to donor countries since its budget is largely funded by them. It wants to reduce poverty in the country, but does not see the link between that goal and the specific situation of the slum community.
- During his previous term in office, the Mayor set up several schools and health centres for vulnerable groups in different parts of the city. In the latest election campaign, he publicly committed to reducing child mortality and launching a campaign to fight illiteracy.
- The High Court refused to review the eviction order on the grounds that it is a policy decision and hence beyond its mandate, even if it impacts on several human rights.
- Officials at the Ministries of Health and Education and some parliamentarians are sensitive to the situation of the slum community and have highlighted in public debates the detrimental effects on the right to health and education of the slum-dwellers if they were to be evicted.

What coping strategies and <u>capacities</u> are locals using to confront this threat?

- Community leaders, despite facing harassment from local administrative authorities, are identifying and mobilizing strong allies against the impending eviction, including parliamentarians and officials at the Ministries of Health and Education.
- Rights holders are well organized and have withstood the pressure from the local authorities. With the support of local NGOs, they unsuccessfully used legal mechanisms to halt the eviction. They also informed the population about the impending municipal elections and are threatening to vote for the opposition party if the local government does not provide adequate relief.
- Community-based organizations together with national NGOs continue to mobilize slum-dwellers to demonstrate against the eviction, despite the recent use of force by the police and the interdiction to assemble, and have begun a strong local and national advocacy campaign.

What State <u>capacities</u> are available to draw on?

- Parliamentarians have the capacity to stop the financing of the beautification project, since they have yet to approve the budget.
- The State has sufficient economic resources to offer financial compensation for the eviction and to provide alternative arrangements for relocation in close proximity to all social services, since it owns unused land close to the city that could be put at the disposal of the evicted population.
- The national human rights institution has a fairly good reputation, but was not seized in this matter, although it would fall within its mandate.
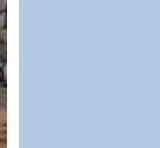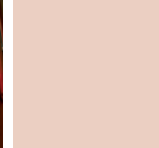
B. Strategies for reducing the risk: suggested interventions by the field presence

How could the actor(s) or structure causing the threat be influenced to reduce the threat?

Short term
- Recommend the postponement of the eviction to the Mayor, local and central authorities until proper consultations with the slum-dwellers are held and a suitable alternative location has been identified and provided.
- If the eviction cannot be stopped, recommend the adoption of adequate compensation for the evicted population and relocation to another site to prevent homelessness.
- Recommend the application of the "Basic principles and guidelines on development-based evictions and displacement" (A/HRC/4/18) to the Mayor, the central Government and donors.
- Monitor and document how the beautification plan was designed and approved by the local authorities, without prior official information and consultation with the slum.
- Monitor and document any human rights violations already occurring in relation to the proposed eviction (e.g., police action vis-à-vis demonstrators, alleged arbitrary arrests/detentions, restrictions on freedom of assembly).

Medium to long term
- Through public reporting and other means, raise awareness among the public, donors and UNCT about how land acquired in the "public interest" is actually serving the interests of a few, while violating the basic rights of many.
- If the eviction does go ahead, monitor how it is undertaken and monitor the situation of the slum community in its aftermath.
- Recommend the adoption of policies and legislation on security of tenure, evictions and resettlement to central and municipal authorities, and propose model principles and guidelines for the eviction and resettlement of communities, compliant with international human rights standards.
- Make the judiciary (incl. High Court) aware of its role in protecting human rights re public policy decisions by administrative authorities.

How could the vulnerability of rights holders be reduced?

Short, medium and long term
- Provide support to the affected community to help them organize themselves in order to better interact with local and central authorities to find an acceptable alternative to the forced evictions.
- Facilitate direct dialogue between local community leaders and the authorities at various levels.
- Raise awareness among the slum-dwellers about their rights in relation to housing and evictions and due process, and about how the proposed eviction will have an adverse impact on the children's education, and on the health and livelihoods of all community members.
- Alert journalists and make use of national and regional media to raise awareness among the community and the public at large on the proposed eviction, its detrimental effect on the human rights of the slum-dwellers and influence public opinion.
- Ensure that humanitarian actors provide immediate aid and relief should the local authorities resort to forced eviction.
- Encourage dialogue among groups within the slum community, to strengthen their ties and defuse possible tensions.

B. Strategies for reducing the risk: suggested interventions by the field presence (cont'd)

How could the <u>commitment</u> or political will of duty bearers be increased?

Short term
- Seek the prompt intervention of the central Government through direct advocacy and by influencing bilateral and multilateral donors so that the impending forced eviction is halted.
- Advocate a revision of the plan with the Minister of Urban Development, ensure that wide meaningful consultations with the affected communities take place and that they are properly informed of all the key aspects of the proposed development plan.
- Lobby – if possible jointly with the UNCT, Protection Cluster and humanitarian actors – the central and municipal authorities to ensure that if evictions do take place, a suitable alternative location will be provided, with adequate access to water, sanitation, health, housing, education and work.
- Make the judiciary more aware of its role in protecting human rights vis-à-vis public policy decisions by administrative authorities.

Medium to long term
- Recommend that an independent body (e.g., NHRI) should monitor the consultation and participation processes of affected communities in the beautification project
- Recommend that complete information should be provided to the affected populations before any decisions are made.
- Recommend directly to the central and municipal authorities and through the United Nations special procedures (on housing, on health, on water), conducting lawful, planned evictions.
- Advocate the enactment of laws about security of tenure and develop legislation and procedures for conducting planned evictions in compliance with international human rights norms and standards.
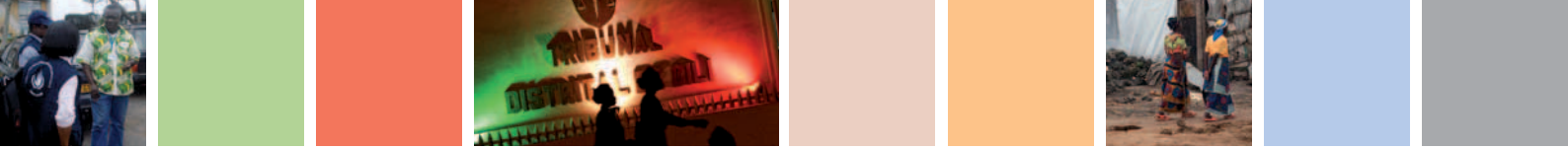
How could community coping strategies and <u>capacities</u> be supported or enhanced?

Medium to long term
- Support the slum community and local human rights NGOs in their own strategy against forced evictions and related human rights violations. Train human rights NGO staff on specific economic, social and cultural rights issues, especially security of tenure and housing.
- Strengthen the capacities of local community leaders and youth for their continued advocacy against the proposed forced eviction, and to gain access to water, sanitation, health, education and compensation if eviction does occur.

How can the State's <u>capacities</u> be enhanced?

- Strengthen the capacity of the judiciary to address human rights-related complaints, particularly those linked to the right to adequate housing and other economic, social and cultural rights.
- Provide samples of legislation on housing and security of tenure from other countries and expert advice to national authorities to improve national legislation and policies.
- Encourage the State to develop partnerships with academic and professional associations, especially in the area of urban development, to get expert advice on plans that are compliant with international human rights standards.
- Provide human rights training for the police on human rights with a particular focus on evictions, arrest, detention and the use of force.
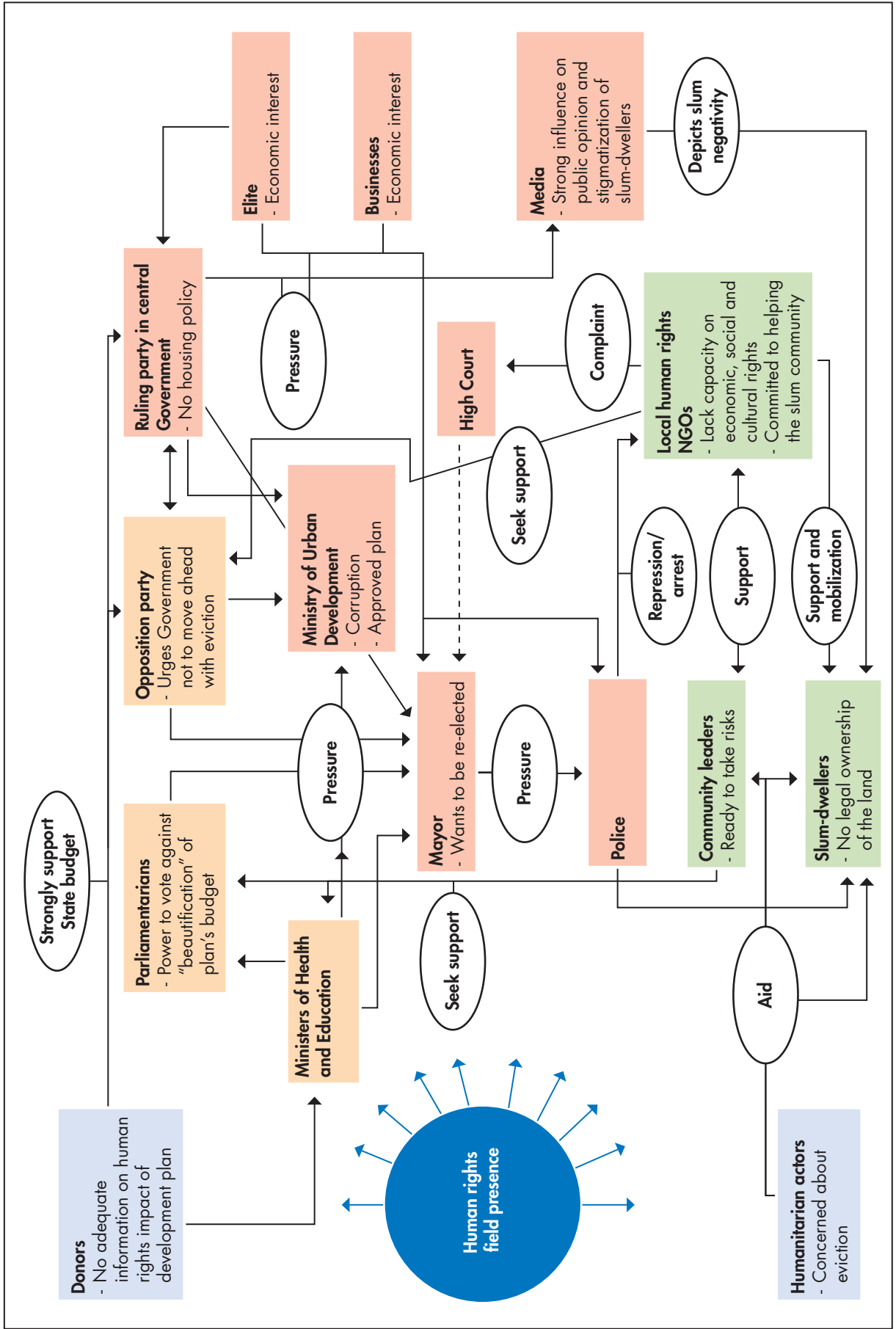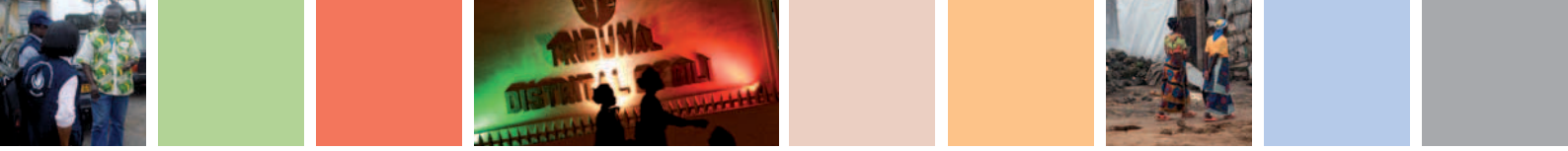- Provide support to the NHRI.

Step 3: Actor mapping

These are the main actors in the country related to the human rights problem that is being analysed:
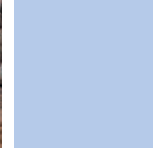
- The *slum-dwellers*, of whom 75 per cent do not have legal ownership of the land they use.
- The *community leaders*, who are committed to getting their entitlements recognized.
- The *local human rights organizations* that work on some economic, social and cultural rights (access to water and education), but lack specific expertise and skills on security of tenure and housing rights to document such violations and organize an advocacy campaign.
- The *Mayor* is keen to be re-elected and is seemingly caught between conflicting interests. He has shown commitment to advancing health and education. However, with regard to the eviction of the slum-dwellers, he is under pressure from the city's elite and business corporations to go ahead with the beautification plan.
- The *City Police Commissioner* is under pressure from the Minister of Urban Development to take action against the slum community. He has close relations with the city's elite.
- The *Minister of Urban Development* has a personal interest in the development of the land and has a close relationship with several land developers and industrial companies. Many officials at her Ministry are alleged to be corrupt.
- The *central Government* has signed all the core international human rights treaties.
- The *opposition party* has a strong support base in the slum.
- Officials at the *Ministries of Health and Education* are sensitive to the situation of the slum-dwellers and have highlighted in public debates the detrimental effects of the proposed eviction on their access to health and education.
- Some *parliamentarians* are concerned that the slum-dwellers may be forcibly evicted. They are urging the central Government to respect its human rights obligations.
- The *High Court*'s independence still has to be determined, since its refusal to grant the NGO injunction could indicate a relation of influence with the Mayor.
- The *humanitarian agencies* are concerned about the displacement that may happen because of the forced eviction.
- The *business corporations and land developers* are putting pressure on the Ministry of Urban Development to pursue the project so that land becomes available for the development of large construction projects.
- The city's *elite* considers the slum as an eyesore and wants the Mayor to fulfil his electoral promise of beautifying the city. Development of the land, which is in a prime area of the city, would also open up new investment opportunities for the elite.
- The *bilateral and multilateral donors* who have shown an interest in the development project are not aware of the situation on the ground. They believe that the proper processes are being followed.
- The *media* covered the news of the beautification project in the city extensively, but has not highlighted its detrimental effect on the slum-dwellers, since it sees them in a negative light.

In addition to the actors presented above and some of the key relations among them, the following actor map also includes the *human rights field presence*. Interventions and relationships with the other actors could be added to the map in a second stage.

Actor map

Donors
- No adequate information on human rights impact of development plan

Parliamentarians
- Power to vote against "beautification" of plan's budget

Ministers of Health and Education

Opposition party
- Urges Government not to move ahead with eviction

Ruling party in central Government
- No housing policy

Elite
- Economic interest

Businesses
- Economic interest

Media
- Strong influence on public opinion and stigmatization of slum-dwellers

High Court

Ministry of Urban Development
- Corruption
- Approved plan

Mayor
- Wants to be re-elected

Police

Community leaders
- Ready to take risks

Slum-dwellers
- No legal ownership of the land

Local human rights NGOs
- Lack capacity on economic, social and cultural rights
- Committed to helping the slum community

Humanitarian actors
- Concerned about eviction

Human rights field presence

Strongly support State budget

Pressure

Pressure

Seek support

Seek support

Complaint

Depicts slum negativity

Repression/arrest

Support

Support and mobilization

Aid

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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HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER