

and with extremely limited influence on the basic institutions and structures needed to safeguard the rule of law."¹⁷³ In such a situation, it becomes debatable whether monitoring and reporting are an optimum use of UN resources, or whether scarce resources might be better spent to promote human rights in some other less traditional ways.

Quite apart from local political constraints, there are physical security constraints for both UN staff and local citizens. Even assuming clear and pressing legal mandates and moral grounds for action, there are times when the physical safety of those involved may militate against active field investigations. The balance between taking action and not taking action is hard to codify with even extensive SOPs (standing operating procedures) or mandates. This reinforces the argument for using experienced staff with extensive life skills who are better prepared to take those field decisions. The reality is that a fair amount of discretion must be assigned to those in the field.¹⁷⁴

Security of local witnesses or sources is particularly important in the investigative component of monitoring. It is far too easy to put the physical and economic well being of locals at risk from retribution from the very human rights violators being investigated. Protecting witnesses goes beyond acquiescing where possible to demands by witnesses for confidentiality. The UN and its agents owe a duty of care to individuals who are unaware of the full implication of being publicly identified. Protecting witnesses spills over into how information is recorded and secured¹⁷⁵, and who such information is passed on to, eg. the media or local authorities. In an even larger sense, issues such as location of HRO offices to enhance security of locals coming to the offices, hiring of locally engaged staff to ensure that they are not 'moles', and proper use of computers and files to secure sensitive information, are all issues that must be dealt with by HROs immediately upon deployment. An abiding principle of any human rights investigator must be, to do no harm.

Recommendation #51

It is recommended that the security of local individuals, including protection of witnesses, other local sources of human rights information, and security of HRO records, be an essential part of all monitoring and reporting procedures.

¹⁷³ p. 59, Dennis McNamara, *UN Human Rights Activities in Cambodia: An Evaluation*, in Henkin/Aspen, op.cit.. Dennis McNamara was the Director of the Human Rights Component of the United Nations Transitional Authority in Cambodia (UNTAC).

¹⁷⁴ Sample scenario: a two person human rights monitoring team, 500 metres away a group of civilians have been detained, and some have been shot. There is the reasonable likelihood that further civilians will be killed by the 20 armed troops who have confiscated the UN team's radio. Duty dictates an attempt to stop further killings and an immediate investigation before evidence is removed or tampered with. Common sense dictates that their lives are at risk and probably they should withdraw for assistance with at least a partial knowledge of events.

¹⁷⁵ An unresolved problem is what happens to case dossiers, files, and other HRO or other UN field 'archives' once an operation is over. What is kept, who keeps them, who has access to them, who can dispose of them?