

United Nations



Nations Unies

Executive Office of the Secretary-General
Cabinet du Secrétaire général

#1 PRIORITY

To: DSG

Please find for approval the draft report of the SG on Cooperation with the UN, its representatives and mechanisms in the field of human rights.

It is an annual report on reprisals and intimidation against persons who have cooperated with the UN in the field of human rights, and includes specific cases on individual cases who have reportedly suffered such acts.

Referring to country-specific situations (including Bahrain, Iran, Morocco, Russia, and Syria) the report is sensitive. It is based on information received from civil society, UN missions or as reported to UN human rights mechanisms, notably special procedures and treaty bodies. Several cases have already been reported to in the public domain, or are forthcoming in the annual communications report to the Human Rights Council.

As noted in the report, the SG has spoken out strongly on the issue, referring to it as a challenge for the UN. The report recommends action at the national (protection, public condemnation, investigations, cooperation with the UN) and international level (establishment of a data base and consideration of a focal point to ensure coherent and systematic response).

The report is due for submission for document processing tomorrow at noon Geneva time.

AK

Political Unit
18 July 2013

Cc: CDC

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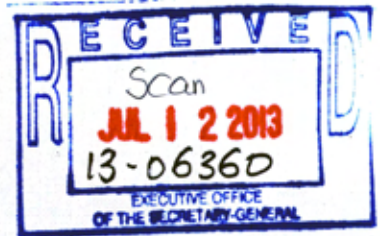
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NATIONS UNIES
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UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER



MEMORANDUM INTERIEUR • INTEROFFICE MEMORANDUM

A: Mr. Jan Eliasson
TO: Deputy Secretary-General

DATE: 11 July 2013

DE: Ms. Navi Pillay
FROM: High Commissioner for Human Rights

OBJET: **For clearance: Secretary-General's report on cooperation with the United**
SUBJECT: **Nations, its representatives and mechanisms in the field of human rights**

Please find attached, for your clearance, the Secretary-General's report (A/HRC/24/29) on cooperation with the United Nations, its representatives and mechanisms in the field of human rights.

This report is submitted pursuant to Human Rights Council resolution 12/2, in which the Council invited:

'the Secretary-General to submit a report to the Council at its fourteenth session, and annually thereafter, in accordance with its programme of work, containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against the persons referred to in paragraph 1 of the resolution, as well as recommendations on how to address the issues of intimidation and reprisals.'

The report contains information gathered from 16 June 2012 to 15 June 2013. It highlights efforts made to raise awareness of the issue of reprisals and intimidation and related measures taken by various stakeholders to combat it. The report provides an account of alleged cases of intimidation or reprisals for having cooperated with the United Nations, its representatives and mechanisms in the field of human rights. The report is elaborated on the basis of the principles of do no harm and the consent of the victim to be named. In some instances, it was therefore not possible to record cases due to specific security concerns or because the individuals subjected to reprisals requested that their cases not be raised publicly. The report contains follow-up information relating to concerns raised in previous reports as well as concluding remarks and recommendations. The report was prepared by OHCHR on the basis of information provided by colleagues in UN peace missions and civil society organizations. The report also reflects responses from Governments to communications sent by special procedures.

Allegations of intimidation or reprisal included in the report relate to thirteen States (Bahrain, Colombia, the Democratic Republic of Congo, the Islamic Republic of Iran, Maldives, Morocco, Philippines, Russian Federation, Saudi Arabia, Syrian Arab Republic, Sri Lanka, Tajikistan and United Arab Emirates). Follow-up information on cases contained in previous SG reports has been included in relation to seven States (Colombia, the Islamic Republic of Iran, Saudi Arabia, Sri Lanka, Sudan, Uzbekistan and Venezuela).

As reprisals for collaboration with the United Nations and its mechanisms in the field of human rights per se are politically sensitive, States mentioned in the report may

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react negatively. Also, the Human Rights Council has paid ever increasing attention to the issue of reprisals, notably in the context of a panel devoted to intimidation and reprisals held on 12 September 2012. At that and at other occasions, the President of the Human Rights Council, the High Commissioner and the Secretary-General have made strong public statements and called on States to ensure that there is no impunity for reprisals. The report also refers to the ECOSOC Committee on non-governmental organizations which decides whether to recommend consultative status, and notes the importance that the Committee apply the criteria for assessing non-governmental organizations in a transparent and fair manner.

The final section of the report on recommendations mirrors earlier statements on reprisals made by the Secretary-General. It also notes that:

- It is primarily the obligation of States to protect those who cooperate with the United Nations in the field of human rights and ensure that they can do so safely and without hindrance, and further action should be taken at the national level, including through the adoption of appropriate legislation, by ensuring accountability in relation to the majority of reported cases of reprisals, by conducting effective and impartial investigations and bringing the perpetrators to justice and providing victims with remedies.
- The Human Rights Council panel of 13 September 2012 should act as a catalyst for robust and coordinated action throughout the UN system. Several recommendations addressed to various stakeholders, including States, the UN, human rights mechanisms, civil society and NHRIs have been made as a result of the panel, which could serve as a roadmap for action against reprisals.
- The panel discussion addressed some recommendations specifically to the UN Secretariat, such as to make information on how to submit allegations of reprisals more accessible, the creation of a central database on cases of reprisals and the appointment of a mediator or ombudsman to act as focal point of the United Nations system for cases of intimidation and reprisal. The Secretary General suggests that these be thoroughly examined.
- The Secretary General encourages the Human Rights Council to discuss the present report under its item 5, which would allow for a further exchange of good practices and give the opportunity to all stakeholders, in particular States, to comment on the allegations contained in the report, including on actions taken to investigate and resolve the cases in question. The Human Rights Council is also called upon to follow up on cases of reprisals and to develop a model national law on the protection of human rights defenders, as proposed by the International Expert Conference “Vienna+20: Advancing the Protection of Human Rights. Achievements, Challenges and Perspectives”.
- The Secretary General thanks civil society organizations for their tireless and dedicated work, on which many in the United Nations rely and for contributing to the present report.

Thank you.

cc: Ivan Šimonović, Assistant Secretary-General

Jan Eliasson

Date: 18 July 2013

United Nations

A/HRC/24/29



General Assembly

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19 July 2013

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Human Rights Council

Twenty-fourth session

Agenda items 2 and 5

Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General

Human rights bodies and mechanisms

Cooperation with the United Nations, its representatives and mechanisms in the field of human rights

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 12/2, in which the Council invited me to submit a report to the Council at its fourteenth session, and annually thereafter, in accordance with its programme of work, containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against the persons referred to in paragraph 1 of the resolution, as well as recommendations on how to address the issues of intimidation and reprisals.

The report contains information gathered from 16 June 2012 to 15 June 2013 and highlights relevant developments relating to the issue of reprisals and intimidation. The report refers to a number of cases in which persons have been reportedly intimidated or suffered reprisals for cooperating with the United Nations, its representatives and mechanisms in the field of human rights. Follow-up information regarding cases mentioned in previous reports, and concluding remarks and recommendations, are also included.

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I. Introduction

1. In its resolution 12/2, the Human Rights Council reiterated its concern at continued reports of intimidation and reprisals against individuals and groups who seek to cooperate, or have cooperated, with the United Nations, its representatives and mechanisms in the field of human rights. The Council condemned all acts of intimidation and reprisals by Governments and non-State actors against these individuals and groups. The Council also expressed deep concern at the seriousness of reported reprisals and the fact that victims suffer violations of their human rights, including the rights to life, to liberty and security of person, as well as the right to freedom from torture and cruel, inhuman or degrading treatment.

2. In resolution 12/2, the Human Rights Council invited me to submit an annual report to the Council on alleged reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights.

3. In my statement at the opening of the twenty-first session of the Human Rights Council, I defined reprisals as one of the challenges faced by the Human Rights Council and the United Nations as a whole. I have also stressed that the cases of reprisals included in my reports were only the "tip of the iceberg" given that, understandably, far too many people are fearful of reporting reprisals aimed at silencing them. I further recalled that States had the responsibility to respect human rights and protect those who advocate for fundamental rights; when they failed to do so, the United Nations had to stand up and speak out.

4. Pursuant to Human Rights Council decision 18/118, a panel discussion on the issue of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights was convened on 13 September 2012. The panel highlighted a number of possible measures to strengthen the response to reprisals, such as: observation of trials involving human rights defenders; networking with non-governmental organizations; establishing a central registry of cases of reprisals to ensure proper follow-up; guaranteeing freedom of expression and criminalization of exacerbating circumstances where human rights defenders were the subject of criminal activity; strengthening judicial efforts, combined with concrete steps to assist victims; nominating focal points at the national level who could act as interlocutors in cases of alleged reprisals; establishing national witness protection programmes; attributing a special role in the protection of individuals subjected to threats and harassment to national human rights institutions; and improving coordination between various actors, particularly with regional organizations and bodies¹.

5. In their work, United Nations' human rights mechanisms and the Office of the High Commissioner for Human Rights (OHCHR), to a large extent, rely on information from civil society actors operating on the ground. The High Commissioner and the Deputy High Commissioner, on many occasions, have strongly condemned acts of reprisal and called for the protection of human rights defenders. In her statement during the panel on 13 September 2012, the High Commissioner underlined the fact that the cooperation of individuals and groups with the United Nations in the field of human rights in a free and safe manner was key to ensuring an efficient approach to the promotion and protection of human rights and regretted that responses by States had been insufficient.

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¹ Summary contained in A/HRC/22/34

6. The role of the President of the Human Rights Council is described as ensuring that the Council proceeds with the appropriate level of dignity and respect in its work to promote and protect human rights, which implies that Members of the Council and all observers, including non-governmental organizations, must be able to contribute freely to the Council's work. When incidents of harassment of civil society representatives are raised, the President reacts including through public statements, meetings and exchanges of letters with the delegations concerned. Such actions are consistent with the outcome of the review of the Council and necessary to preserve its credibility. At the panel of 13 September 2012, the former President expressed her satisfaction at the fact that the Human Rights Council reacted to unacceptable acts of reprisals or intimidation. In the view of the President, the Council should remain a place where all voices, even dissenting ones, may be heard, and it is the Council's responsibility to ensure that all individuals participating in its meetings and cooperating with it are safe from intimidation and reprisals.² At the end of the 23rd Human Rights Council session, its President emphasized that, as stressed by many delegations, any acts of intimidation or reprisals against individuals and groups who cooperate or have cooperated with the United Nations and its representatives are unacceptable and must end. Referring to the outcome of the Human Rights Council's review in 2011, he urged States to prevent and ensure adequate protection against such acts.

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7. Special procedures have raised reprisals-related issues in many of their reports to, and interactive dialogues with, the Human Rights Council. During the panel of 13 September 2012, the Chairperson of the Coordination Committee of Special Procedures, Mr. Michel Forst, described some measures developed by special procedures, individually and jointly, to address reprisals. He suggested that any reprisal against a witness cooperating with a mandate holder should be treated as an attempt to undermine the mandate itself, and consequently called for a rapid and systematic response from States Members of the Human Rights Council. Mr Forst also stated that the Chairperson of the Coordination Committee should be able to intervene immediately and publicly in cases of intimidation or reprisal brought to his or her attention by a mandate holder. Mr. Forst also called for more systematic follow-up on cases raised in communications and reports of special procedures.

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8. In terms of action by human rights treaty bodies, in November 2012 the Committee against Torture designated two rappoteurs on reprisals. The Sub-Committee on the Prevention of Torture (SPT) continues to pay attention to the question of reprisals, in particular in the context of its field visits, and the prohibition of reprisals is systematically raised by the SPT with relevant authorities (prior and during visits and as a follow-up to visits). At its 16th session in February 2012, the SPT decided to establish an ad-hoc Working Group on the issue of reprisals. The Working Group is currently drafting a policy paper on reprisals which will be published shortly. During the Human Rights Council panel in September 2012, the Chairperson of the Committee against Torture, Mr. Claudio Grossman emphasized the fact that it was important to prevent reprisals, and create an environment in which everybody was able to enjoy and uphold human rights.

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9. During the general debate under item 5 ("Human rights bodies and mechanisms") during the twenty-second session of the Human Rights Council in March 2013, a group of 56 States, led by Hungary, issued a statement expressing appreciation for the strong stance against reprisals taken by the United Nations Secretary-General, the High Commissioner, successive Presidents of the Human Rights Council and human rights mechanisms. The

² See: Summary of the Human Rights Council panel discussion on the issue of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, A/HRC/22/34, paras 11-12

statement highlighted the recommendations made during the panel held in September 2012 and stressed that the summary of the panel should be considered to be a roadmap to guide further action on this issue. The statement also emphasized that more coordination is needed among United Nations bodies and mechanisms in reacting to reprisals which should also be systematically addressed in the framework of the Universal Periodic Review (UPR), treaty bodies and special procedures.

10. As stressed by Mr Shire Sheikh Ahmed, Executive Director of the East and Horn of Africa Human Rights Defenders Project during the Human Rights Council panel, since States do not always live up to their responsibility to ensure the safety of those who cooperate with the United Nations, practical responses to assist victims have been developed within civil society, drawing largely on the work of existing organizations and networks that support human rights defenders who face threats as a result of their work. These include temporary evacuation and relocation of persons at risk, trial observation, provision of legal assistance, implementation of practical security measures and public and private advocacy to raise awareness of violations or to seek solutions through private dialogue. In this context he pointed to the contribution of networks in responding to and preventing reprisals.³ Civil society has an equally important role to play in ensuring that cases of intimidation and reprisals are brought to the attention of the relevant mechanisms. In this context, a new tool has been developed by the International Service for Human Rights (ISHR) to provide guidance to civil society organizations on possible responses to alleged reprisals⁴.

11. In light of the fact that non-governmental organizations (NGOs) with consultative status with the Economic and Social Council have privileged access to the Human Rights Council and other United Nations mechanisms, ~~it is critical that the Committee on Non-Governmental Organizations applies the criteria for assessing NGOs in a transparent and fair manner and processes the applications in a timely manner.~~ At its 2013 resumed session, held from 20 to 29 May and on 7 June 2013, the Committee on Non-Governmental Organizations had before it 426 applications for consultative status, including applications deferred from earlier sessions. Of the non-governmental organizations submitting applications, the Committee recommended 161 for consultative status, deferred 219 for further consideration at its regular session in 2014, closed consideration without prejudice of 45 applications that had failed to respond to queries over two consecutive sessions, and took note of one organization withdrawing its application⁵. Several stakeholders have raised concerns about the regularly high number of deferrals and the widely perceived lack of transparency in making decisions about conferring consultative status.

12. I have observed a disturbing trend which appears to be directed at reducing the space for civil society. This manifests itself in restrictive legislative amendments to laws on freedom of association, and in constraints in an increasing number of national laws and procedures which render receipt of funds from abroad more complicated or impossible. During the last two years, the United Nations Voluntary Fund for Victims of Torture and the United Nations Voluntary Fund on Contemporary Forms of Slavery have experienced increasing problems in disbursing grants to non-governmental organizations through which they channel direct assistance to victims- in line with the mandate entrusted to them by the General Assembly. In at least three countries, regulations appear to be in place, which make it difficult for banks to receive money transfers from abroad and additional measures have had to be taken by the Funds to ensure that payments reached their grantees. In addition, I

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³ A/HRC/22/34, para. 31

⁴ See: http://www.files.ishr.ch/public/ishr_handbook_web.pdf

⁵ E/2013/32(Part II), summary; see also A/HRC/22/34, para. 16

note with concern that in several instances those receiving funds from abroad are subject to increased scrutiny, sometimes amounting to harassment, by State authorities. In some cases, the fact that civil society organizations cannot receive funds from abroad effectively prevents them from participating in sessions of treaty bodies or the UPR.

13. In this connection, ~~resolution 22/6 on the protection of human rights defenders co-sponsored by more than 70 States adopted by the Human Rights Council in March 2013~~ must be highlighted. In that resolution, the Human Rights Council unequivocally reaffirms the right of everyone, individual or in association with others, to unhindered access to, and communication with, international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. The resolution calls upon States to refrain from any act of intimidation or reprisals against those who cooperate or seek to cooperate with international institutions, including the UN in the field of human rights.

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14. ~~The United Nations has also received a number of allegations of acts of intimidation and reprisals as a result of cooperation with regional organizations. While resolution 12/2 does not explicitly cover cooperation with regional organizations, this is of deep concern. I call upon relevant actors to ensure a consistent approach by all regional and international human rights mechanisms vis-à-vis these grave violations of international human rights norms.~~

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II. Information received on cases of reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights

A. Methodological framework

15. In accordance with Human Rights Council resolution 12/2, the present report contains information regarding acts of intimidation or reprisal against those who:

- Seek to cooperate, or have cooperated with, the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them,
- Avail, or have availed themselves, of procedures established under the auspices of the United Nations for the protection of human rights and fundamental freedoms, and all those who have provided legal or other assistance to them for this purpose,
- Submit, or have submitted, communications under procedures established by human rights instruments, and all those who have provided legal or other assistance to them for this purpose,
- Are relatives of victims of human rights violations or of those who have provided legal or other assistance to victims,

16. The present report covers the period from 16 June 2012 to 15 June 2013. The information received has been cross-checked, whenever possible, with primary sources. Otherwise, allegations were assessed for reliability and consistency and corroborated through multiple sources. In those cases where victims of reprisals or their representatives have been in contact with the United Nations including its mechanisms in the field of human rights, reference is made to relevant follow-up action, including relevant correspondence.

17. In certain cases, it was not possible to include particular cases in the report due to the risk that public reporting would have entailed for the concerned victims of reprisals was assessed as being too high. Therefore, the acts of intimidation or reprisals against individuals or groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights that are included in the present report represent only a small sample of the cases that are likely to have occurred.

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18. During the period under review, information was received about acts of intimidation or reprisal following cooperation with OHCHR, the Human Rights Council, special procedures, human rights treaty bodies, the universal periodic review mechanism, the United Nations Commission on the Status of Women and United Nations peace missions.

B. Summary of cases

Bahrain

19. In a communication sent on 18 October 2012⁶, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of expression and opinion and the Special Rapporteur on the rights to freedom of peaceful assembly and association raised allegations that following the 21st session of the United Nations Human Rights Council from 10 to 28 September 2012, Al-Watan newspaper on 25 September published the names and photos of participants of the Human Rights Council's universal periodic review of Bahrain, who were accused of "discrediting Bahrain in Geneva". Those subjected to the above acts include Mr Mohammed Al-Maskati, Ms Maryam Al-Khawaja, Dr. Nada Dhaif, Dr. Mondher Alkhor, Ms. Jalila Al-Salman and Mr. Said Yousif.

20. In addition, on 16 October 2012, Mr. Al-Maskati was reportedly summoned to Al-Hooraa Police Station for interrogation, detained overnight and charged with "rioting and participating in an illegal assembly" on the next day.⁷ In response, the Government indicated that Mr Maskati had been summoned by means of an order and appeared on 16 October 2012 for questioning about charges of riotous assembly and participation in an unlicensed march under article 178 of the Bahraini Criminal Code. While he was in the police station he was not under arrest or in detention, but stayed for the period needed to take his statement and to complete the evidence procedures and the preliminary report for his appearance before the public prosecutor.⁸

Colombia

21. Allegations received indicate that Carlos Yamil Paez Diaz, a land restitution leader who works for the organization Tierra y Vida y Forjando Futuros⁹, on 4 July 2012, was threatened by the so-called "Anti-restitution Army" through a pamphlet against human rights defenders active in his area of work. On 6 July 2012, the OHCHR Colombia Office issued a press release on that threat, and a week later Mr. Paez received a handwritten death threat against himself and his family. Since then he has benefitted from a protection scheme consisting of an armoured car and two bodyguards, with an additional bodyguard being added after the threat. Whereas initially these measures were applied only during the day,

⁶ A/HRC/22/67

⁷ See also similar references in my previous reports: A/HRC/21/18, paras: 18-21 and 51-54 A/HRC/18/19, paras. 15-24

⁸ A/HRC/22/67, Government response of 19 November 2012

⁹ See OHCHR Colombia press release of 6 July 2012

following an intervention by OHCHR Colombia, the National Protection Unit under the Ministry of the Interior agreed that one of the escorts would provide night shift coverage.

Democratic Republic of the Congo

22. On 28 August 2012, Mr Pierre-Sosthène Kambidi, Chief Editor at the Radio-Télé Chrétienne (RTC) in Kananga, Kasai occidental province, was arrested by agents of the National Intelligence Agency (ANR), two policemen and four civilians following an order of the 4th Military Region Commander. M. Kambidi was not informed about the charges against him, but was eventually charged for "troops' demoralization" and for "participation in an insurrectional movement" under article 206 of the penal code in relation to a broadcast he had made on a "deserter". In the night of 29 and 30 August 2012, he was reportedly severely beaten up with a truncheon. On 30 August 2012, Mr. Kambidi was transferred to ANR in Kinshasa.

23. During a visit by the MONUSCO Joint Human Rights Office (JHRO) on 26 September 2012, Mr Kambidi denounced the acts of ill-treatment to the UNJHRO team, and was later reportedly again subjected to ill-treatment. Mr Kambide remained in detention at the ANR in Kinshasha until 15 December 2012, when he was released.¹⁰

Iran (Islamic Republic of)

24. Alleged reprisals against individuals who contacted the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran were received during the period under review. In one such case, Mr Mohammad Nour-Zehi, Mr Abdolwahab Ansari and Mr Massoum Ali Zehi, all nationals of Afghanistan, were reportedly subjected to torture and threats of execution by hanging for allegedly submitting a list of executed Afghans to the Special Rapporteur on Iran. The incident reportedly occurred in mid-November 2012 in Ghezel Hessar Prison, where officials of the Intelligence Ministry interrogated these individuals for hours, accompanied by torture and threats of executions¹¹.

25. In addition, Mr Ahmad Tamouee, Mr Yousef Kakeh Meimi, Mr Jahangir Badouzadeh, Mr Ali Ahmad Soleiman and Mr Mostafa Ali Ahmad, members of the Kurdish community, currently held in Orumiyeh Prison, were charged with "contacting the office of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran," "reporting prison news to human rights organisations," "propaganda against the system inside prison," and "contacting Nawroz TV". On 11 October 2012, the five prisoners were reportedly transferred to the Intelligence Ministry's Detention Center, where they were interrogated and kept in solitary confinement for two months. During their interrogation, they were allegedly severely tortured, threatened and denied contact with their families and lawyers. On 11 December 2012, they were individually transferred to the Branch One of the Orumiyeh Revolutionary Court, where Ahmad Tamouei was tried on charges of 'contacting Dr. Ahmed Shaheed's office' and 'reporting prison news to human rights organizations and media abroad.' The other four were questioned and informed that they would face charges of 'propaganda against the regime in favour of PJAK Party inside Orumiyeh Prison' and 'contact with the Kurdish language television station, Nawroz TV.'¹²

Maldives

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¹⁰ This case was raised with the Government several times including in letters sent to ANR by MONUSCO's Joint Human Rights Office on 16 November 2012 and 18 January 2013

¹¹ A/HRC/22/56, para. 5

¹² A/HRC/22/56, para. 6

26. During its 105th session in July 2012, the Human Rights Committee was informed of threats made to members of NGOs who provided reports to the Committee on the human rights situation in the Maldives. In response, the Committee stated that some representatives of civil society had expressed concern about threats, including death threats, that had been made against colleagues who had submitted reports to the Committee. The Committee was not imputing any such action to the current Government, but stated that it would be very grateful if the latter could reaffirm its determination to protect civil society. In response, the State party stated that such reports were a matter of grave concern and that the law enforcement authorities would undertake a full investigation of threats to any representatives of civil society. The Government would offer protection to all citizens regardless of their political beliefs. In recent months it noted, for example, that it had provided close personal protection, including bodyguards, to members of the opposition.¹³

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Morocco

27. On 20 September 2012, while the Special Rapporteur on torture, during a country visit, interviewed Mr. Ali Aarrass in Salé I Prison in Rabat, the forensic doctor who accompanied the Special Rapporteur examined traces on Mr. Ali Aarrass' body and observed that, although he was unable to identify them unequivocally as signs of torture, they were clearly compatible with the allegations of ill-treatment presented by Mr. Aarrass. According to information submitted to the Special Rapporteur, following that meeting, Mr. Aarrass was transferred to Salé II Prison, where a prison guard reportedly harassed him to retrieve details of his discussions with the Special Rapporteur. On 21 September 2012, Mr. Aarrass allegedly filed a complaint against that prison guard with the prison authorities. On the following day, the prison authorities reportedly threatened and pressured Mr. Aarrass to force him to withdraw his complaint, which he ultimately did. However, the harassment and threats, including of rape and making his life in prison impossible, reportedly continued.¹⁴

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Philippines

28. Ms. Stella Matutina, Secretary General of Panalidan! Mindanao, a network of environmental and land rights defenders and a Benedictine nun based in Mati, Davao Oriental, in Mindanao, has been involved in grassroots education and advocacy and lobbying efforts in order to defend indigenous communities from commercial logging and large scale mining projects. Panalidan! also supports environmental rights defenders who are victims of death threats and acts of harassment due to their human rights activities. It is alleged that Ms. Matutina has been subjected to several incidents of threats and harassment, and that, since she participated in the Philippine UPR Watch delegation to discuss the human rights situation in Mindanao in the context of a side-event during the nineteenth session of the United Nations Human Rights Council in March 2012, members of the

Deleted: Le 20 septembre 2012, le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, pendant sa visite du pays, a rencontré M. Ali Aarrass à la prison de Salé I. Le médecin légiste indépendant qui accompagnait le Rapporteur spécial a effectué un examen physique externe et conclu que la plupart des traces observées, bien que non diagnostiquées comme signes de torture, sont clairement compatibles avec les allégations présentées par M. Aarrass. Selon les informations soumises au Rapporteur spécial sur la torture, après l'avoir rencontré M. Aarrass aurait été transféré à la prison de Salé II et harcelé pour l'obliger à fournir des détails sur la visite et sur la discussion avec le Rapporteur spécial. M. Aarrass aurait ensuite déposé une plainte contre la prison auprès des autorités de la prison le 21 septembre 2012. Le 22 septembre 2012, les autorités pénitentiaires auraient menacé M. Aarrass et fait pression sur lui pour qu'il retire sa plainte. Il est rapporté que suite aux menaces et actes d'intimidation proférées M. Aarrass aurait retiré sa plainte. Toutefois, le harcèlement et les menaces, entre autre de viol et de rendre sa vie en prison impossible, auraient continués d'être proférés

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¹³ CCPR/C/MDV/CO/1, para. 26: The Committee is concerned at information that some individuals who have provided information to the Committee for the consideration of the State party's initial report have been subject to threats and intimidation as a result of submitting such reports. The State party, as a matter of urgency, should take all necessary steps to protect individuals who have provided information to with the Committee. The State party should inform the Committee on measures taken in this regard.

¹⁴ A/HRC/23/51, communication of 4 December 2012

¹⁵ A/HRC/23/51, communication of 4 December 2012

Armed Forces of the Philippines have referred to ~~Ms. Matutina~~ as being a member of the New People's Army¹⁶, the armed wing of the communist party.

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Russian Federation

29. Several United Nations human rights mechanisms have raised concerns about the law on non-governmental organizations adopted in November 2012, under which all foreign-funded non-commercial organizations could be branded as 'foreign agents' if they are considered to have engaged in "political activities". They also referred to the use of the term 'foreign agents', which can lead to increased stigmatization and vulnerability to acts of violence against those targeted¹⁷. No Government response has been received to date. Similar concerns have been raised by a number of States during the recent UPR review of the Russian Federation.¹⁸

30. Similarly, in November 2012 the Committee against Torture indicated that it was concerned about individuals, groups, human rights defenders and journalists subjected to intimidation, harassment or any kind of violence related to their activities, including for communicating with or giving information to the Committee or other United Nations human rights bodies. The Committee recommended that the State party should amend the law in question, that no individual or group be subjected to prosecution for communicating with, or for providing information to United Nations human rights mechanisms, and that all allegations of intimidation, threats, attacks and killings of human rights defenders be investigated promptly, thoroughly and impartially¹⁹.

31. The Committee against Torture sent two allegations letters and made a public statement, referring to allegations that two Russian non-governmental organizations (the Anti-Discrimination Centre Memorial in St Petersburg and the Public Verdict Foundation in Moscow) that had provided information to the Committee in December 2012 during the consideration of the fifth periodic report of the Russian Federation to CAT, have since faced reprisals. They were charged by the public prosecutor with violating legislation under which non-profit organizations involved in political activity must register as "foreign agents" if they receive money from abroad. The Committee recalled that reprisals contravene article 13 of the Convention.²⁰

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Saudi Arabia

32. According to information received, on 9 March 2013, the Riyadh Specialized Criminal Court sentenced Mr. Abdullah Al Hamid, co-founder of the Saudi Association for Civil and Political Rights (ACPRA), which campaigns against arbitrary detention, to six years' imprisonment, inter alia, for providing false information to outside sources, including the human rights mechanisms of the United Nations. He now has to serve a total of 11 years in prison, as the court also partly reinstated a seven-year sentence that had been handed down in 2005 for an offence for which Mr Al Hamid had later been pardoned by the King, with a subsequent travel ban. At the same time, the court ordered the disbanding of

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¹⁶ A/HRC/23/51, communication of 28 December 2012

¹⁷ See press release dated 14 May 2013 of the Special Rapporteur on freedom of expression, the Special Rapporteur on human rights defenders and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

¹⁸ A/HRC/WG.6/16/L11

¹⁹ CAT/C/RUS/CO/5, para. 12

²⁰ Press release of the Committee against Torture dated 6 June 2013

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ACPRA, confiscation of its property and the closure of its social media accounts, on the ground that it had failed to obtain an official licence to operate.²¹

Syrian Arab Republic

33. According to information received, Mr. Mazen Darwish, Director of the Damascus-based Syrian Centre for Media and Freedom of Expression (SCM), as well as Mr. Hussayn Gharir, Mr. Hani Zitani, Mr. Abdelrahman Alhamade and Mr. Mansour Al-Omari, all arrested on 16 February 2012 in the context of a raid on SCM's offices, reportedly spent over nine months in incommunicado detention at the Air Force Intelligence (AFI) detention centre at Al Mazza military airport, from their arrest on 16 February until 30 November 2012, when they were transferred to Damascus Central Prison in Adra. While in detention, all five were allegedly subjected to inhuman treatment and suffered from extremely poor detention conditions.

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34. On 27 February 2013, the five individuals were reportedly charged with "promoting terrorist acts" by the investigative judge of the Anti-Terrorism Court in Damascus under Article 8 of the 2012 Anti-Terrorism Law. It is alleged that the list of offences published by the investigative judge of the Anti-Terrorism Court includes "documenting the names of those detained, disappeared, wanted or killed" in the context of the Syrian conflict, "communicating with international organizations with the aim of having the international community condemn Syria" as well as "publishing studies on the human rights and media situation in Syria". It appears that "communicating with international organizations with the aim of having the international community condemn Syria", may relate to, inter alia, the granting of consultative status to the SCM by the UN Economic and Social Council (ECOSOC) in 2010, and the organization's subsequent cooperation with various United Nations human rights mechanisms. It is reported that Messrs Alhamade and Al-Omari were released pending trial.²²

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35. As I have pointed out²³, the monitoring and reporting work of the United Nations Supervision Mission in Syria (UNSMIS), established by United Nations Security Council (UNSC) resolution 2043(2012), was hampered by the stated perception of some Syrian civilians that they risked retaliation by Government forces following interaction with UNSMIS. In this context, particularly during the latter stages of its deployment, the peacekeeping mission documented at least one occasion on which local civilians were explicitly threatened by Government security forces and told not to speak to United Nations Observers, while on other occasions civilians, including some seeking treatment in hospitals, specifically indicated they would not speak to Observers due to fear of Government retaliation. Additionally, some individuals claimed to have been detained days after having interacted with UNSMIS. UNSMIS also reported a number of incidents where they were requested not to visit specific towns or villages because of perceived security risks and implications for the civilian population. Another issue of concern in respect of UNSMIS' visits was the reported fear of some communities located in opposition controlled-areas that they would be shelled after UNSMIS observers concluded patrols in an area.

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²¹ A/HRC/24/21, communication of 27 March 2013

²² See also General Assembly Resolution A/67/L.63, para. 5

²³ S/2012/523, para 55

²⁴ A/HRC/22/67, communication of 20 November 2012

Tajikistan

36. Attention also been drawn to the closing of the Association of Young Lawyers of Tajikistan (Amparo), a leading organization which provides free legal aid, human rights education and training, following a decision of the Khujand City Court of 24 October 2012.

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37. Amparo had been actively engaged with United Nations human rights mechanisms, particularly on issues related to torture and ill-treatment. This engagement included their recent participation in the preparation by the Coalition against Torture of a NGO report submitted to the United Nations Committee against Torture before the consideration of the second periodic report of Tajikistan by the Committee on 7 and 8 November 2012. Members of "Amparo" also met with the Special Rapporteur on torture, cruel, inhuman and degrading treatment, Mr. Juan Mendez, during his official visit to the country in May 2012 to provide information about the prevalence of abuse of recruits and hazing in the military.

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38. In respect of the closing of Amparo, a number of special procedures raised concerns about lack of procedural safeguards, including the fact that "Amparo" reportedly never received a copy of the audit initiated by the Ministry of Justice in July 2012, on the basis of which it was closed, and has not been able to comment on it. It is further reported that the Ministry of Justice had presented internal instructions from the ministry, which had allegedly not been published and do not provide procedural guidelines for audits, to the judge concerned²⁶. No Government response has been received to date.

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United Arab Emirates

39. Allegations relating to the fairness of the trial and the treatment in detention of 94 civil society actors calling for change in a peaceful way in March 2013 and the developments leading up to their trial were raised in a series of communications by several special procedures mandate holders, the latest of which is dated 16 April 2013. The Government, in its response²⁷, called these allegations "far removed from the truth and unfounded in virtually every detail". In particular, the allegations pertaining to torture, physical abuse and beatings are categorically denied.

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C. Follow-up information on cases included in previous reports

Colombia

40. Further to the information included in last year's report regarding Mr Ortiz Jimenez, who in 2008 had provided testimony on the modus operandi of the so-called "false positives" and who had to leave the protection programme of the Colombian Attorney General's Office as the latter refused to include members of his family in the programme despite requests by OHCHR Colombia, new information received indicated that in December 2012, several people stopped Mr Ortiz Jimenez in the center of the city of Barranquilla and attempted to abduct him, but he managed to escape. Further, on 13 May 2013, while he was driving to a clothing store in Barranquilla, he was reportedly approached by two people who threatened his daughter and nephew. The National Protection Unit undertook a risk study on his situation at the end of 2012, concluding that the risk was "extraordinary". Since mid-January 2013, the National Protection Unit has offered him a bulletproof vest, a communications device and transportation allowance. The police also carries out patrols around his home.

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²⁷ A/HRC/24/21, Government response of 10 June 2013

Iran

41. Further to the information included in last year's report²⁸, Ms. Maryam Bahrman, an Iranian women's rights activist and member of the One Million Signatures campaign, was tried in the Revolutionary Court of Shiraz on 15 September 2012. In December 2012, Ms. Bahrman, was sentenced to a suspended prison term of eight months on charges of propaganda against the State, but acquitted of "insulting the leader" and "founder of the Islamic Republic of Iran". On 20 May 2013, she was subjected to a financial penalty for defaming the President and other State officials and for spreading misinformation about the system of the Islamic Republic of Iran. Her arrest and prosecution appeared to be linked to her participation in the fifty-fifth session of the Commission on the Status of Women in New York in March 2011.

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Saudi Arabia

42. Further to the information in last year's report on Mr. Mohammad Fahad Al-Qahtani²⁹, lawyer and co-founder and President of the Saudi Association for Civil and Political Rights (ACPRA), which campaigns against arbitrary detention, it has been reported that, on 9 March 2013, the Riyadh Criminal Court sentenced him to 10 years' imprisonment and a 10-year travel ban, inter alia for providing false information to outside sources, including the human rights mechanisms of the United Nations.³⁰

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Sri Lanka

43. Previous reports have made reference to the climate of fear human rights defenders experience in Sri Lanka.³¹ In the context of the 22nd session of the Human Rights Council in March 2013, the Sri Lankan Permanent Mission circulated a document³² which described the screening of a film about Sri Lanka by non-governmental organizations as "efforts on the part of entities based overseas with links to rump elements of the LTTE [Liberation Tigers of Tamil Eelam], as well as certain non-governmental organizations with accreditation by the Economic and Social Council, in facilitating programmes containing unsubstantiated material that is morphed and diabolical. This approach [...] serves to strengthen the rump elements of the LTTE seeking refuge in the West, who use the propaganda value derived from the screening of this film as a tool to intensify their fundraising and recruitment activities, thereby undermining the process of reconciliation in Sri Lanka." Such statements could have the effect of undermining the work of human rights defenders who monitor the human rights situation in Sri Lanka.

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Sudan

44. The case of Mr. Bushra Gamar Hussein, chair of the Human Rights and Development Organisation, was included in last year's report³³ where it was alleged that he had been arrested and tortured in connection with his work in defence of human rights. By letter dated 3 July 2012, the Government of Sudan indicated that the Attorney General had decided to close the case of Mr. Bushra Gamar Hussein due to "insufficiency of evidence".

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²⁸ A/HRC/21/18, para 28;

²⁹ A/HRC/21/18, paras 35-37;

³⁰ A/HRC/24/21, communication of 27 March 2013

³¹ A/HRC/21/18, paras 38-46; A/HRC/18/19, para. 69; A/HRC/14/19, paras. 40-43; A/HRC/21/18, paras. 38-46;

³² A/HRC/22/G/7

³³ A/HRC/21/18, paras. 48-50

Uzbekistan

45. Further to information included in my previous reports in relation to Erkin Musaev³⁴, the Government of Uzbekistan responded that the allegations regarding poor conditions of detention in Uzbekistan, and Mr Musaev's situation in particular were not justified. Specifically, the Government indicated that, throughout his imprisonment Mr Musaev has never been subjected to any torture, ill-treatment, degrading treatment or other violent acts by penitentiary staff and that the conditions under which sentences are served in the Ministry of Internal Affairs' correctional facilities strictly conform to current legislation and the regulatory standards established by the Ministry³⁵.

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Venezuela (Bolivarian Republic of)

46. According to up-dated information about Judge María Lourdes Afiuni, whose case was mentioned in my three most recent reports on reprisals,³⁶ she was subjected to assaults, acts of intimidation and rape by a Government agent, which resulted in pregnancy and miscarriage while in detention.³⁷ Her trial began in November 2012 after the Penal Code was amended by former President Chávez through the Ley Habilitante (Enabling Law) so that trials could take place in the absence of the accused. Judge Afiuni, in consultation with her legal counsel, had indicated she would not enter the trial chamber to protest against violations of her due process rights. On 14 June 2013, a court in Caracas rescinded the Judge's house arrest on health grounds after a request from the Attorney General. The terms of her release require her to report to the court every 15 days and forbid her to leave the country and speak to the media. The trial continues.

47. Judge Afiuni had been arrested on 10 December 2009 after she ordered the conditional release of an individual whose detention the Working Group on Arbitrary Detention considered arbitrary. Former President Chavez reportedly publicly demanded that she be sentenced to 30 years of imprisonment. In September 2010, the Working Group on Arbitrary Detention, in its opinion 20/2010, concluded that the detention of Judge Afiuni was arbitrary (A/HRC/16/44/Add.1, paras. 2417-2434).

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48. In February 2013, five United Nations Special Procedures' mandate-holders issued a public statement urging the Venezuelan Government to free Judge Afiuni and calling for investigations into her most recent allegations. They noted that Judge Afiuni had been in detention for over three years, despite the fact that article 230 of the Penal Code establishes that detention cannot exceed the limit of the minimum sentence of the most serious crime of which the person is accused, which would be three years. No response from the Government had been received by the end of the reporting period.

III. Conclusions and recommendations

49. The present report clearly illustrates that regrettably reprisals against persons cooperating with the United Nations, its mechanisms and representatives in the field of human rights continue. They take many forms, ranging from smear campaigns, threats, travel bans, harassment, fines, closing of organizations, sexual violence,

³⁴ A/HRC/18/19, para. 86; A/HRC/14/19, para. 44, A/HRC/21/18, para. 67

³⁵ A/HRC/22/67, p. 187

³⁶ A/HRC/21/18, paras. 68-69; A/HRC/18/19, paras. 87-90; A/HRC/14/19, paras. 45-47

³⁷ A/HRC/24/21, communication dated 25 January 2013

arbitrary arrests, prosecutions, lengthy prison sentences to torture, ill-treatment and even death. Many of the cases remain unresolved for lengthy periods.

50. In my statement of 13 September 2012, on the occasion of the opening of the 21st session of the Human Rights Council during which a panel on reprisals was held, I referred to reprisals as one of the main challenges faced by the Human Rights Council and the United Nations. I reiterate that reprisals and intimidation against individuals cooperating with the United Nations in the field of human rights are unacceptable, not only because they target individuals who help us do our work as mandated under the Charter, but also because they ultimately aim to discourage others from advocating for respect for human rights, and put them at risk.

51. I have also highlighted the need to ensure that persecution and intimidation are systematically condemned and legal action taken by those responsible. Several recommendations addressed to various stakeholders, including States, the United Nations, human rights mechanisms, civil society and national human rights institutions, have been made as a result of the panel. I encourage that these recommendations, among others, serve as a roadmap for action against reprisals.

52. It is primarily the obligation of States to protect those who cooperate with the United Nations in the field of human rights and ensure that they can do so safely and without hindrance. In this context, I reiterate my earlier recommendations for action at the national level, including through the adoption of appropriate legislation, by publicly condemning acts of reprisals and intimidation, by ensuring accountability in relation to the majority of reported cases of reprisals, by conducting effective and impartial investigations and bringing the perpetrators to justice and providing victims with remedies. I also encourage States to respond to allegations of intimidation and reprisals, and cooperate with the United Nations regarding such acts.

53. The international community should act to address cases of reprisals in a coherent and systematic manner and use the various tools it has at its disposal. International and regional human rights mechanisms are crucial in this context and I welcome their enhanced coordination. The panel discussion addressed some recommendations specifically to the UN Secretariat, such as:

- To make information on how to submit allegations of reprisals more accessible;
- The creation of a central database on cases of reprisals; and
- The appointment of a mediator or ombudsman to act as focal point of the United Nations system for cases of intimidation and reprisal.

These should be thoroughly examined and considered.

54. I commend the Human Rights Council for adopting Resolution 22/6, which took a strong stance in support of a safe and enabling environment for human rights defenders. The resolution is instrumental in the response of the United Nations to reprisals. The idea that the Council holds a discussion dedicated to reprisals on an annual basis has received considerable support. I strongly encourage the Human Rights Council to discuss my report under its item 5. This would allow for the continuation of the discussion which began during at the panel last September and a further exchange of good practices and give the opportunity to all stakeholders, in particular States, to comment on the allegations contained in the report, including on actions taken to investigate and resolve the cases in question. I also call upon the Human Rights Council to follow up on cases of reprisals, as proposed by the International Expert Conference "Vienna+20: Advancing the Protection of Human Rights. Achievements, Challenges and Perspectives".

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55. As reiterated by the International Expert Conference “Vienna+20: Advancing the Protection of Human Rights. Achievements, Challenges and Perspectives”³⁸, the need to protect human rights defenders against undue interference and reprisals, including ensuring their rights to freedom of expression, association and assembly and their access to funding, persists. Many of us, in particular those seeking to advance human rights within the United Nations, rely on their work. I thank civil society organizations for their tireless and dedicated work. I also thank them for contributing to the present report and encourage them to continue to do so.

³⁸ Held on 27-28 June 2013. See http://www.ohchr.org/Documents/Events/OHCHR20/Vienna20_conf_report.pdf.

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