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

## Report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights\*

### *Summary*

The present report is submitted pursuant to Human Rights Council resolution 12/2, in which the Council invited the Secretary-General to submit a report to it 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 persons referred to in the resolution are those who:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) Are relatives of victims of human rights violations or of those who have provided legal or other assistance to victims.

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\* Late submission.

The introduction illustrates the importance of cooperation with the United Nations, its representatives and mechanisms in the field of human rights by citing a number of key United Nations documents in this regard.

Chapter II of the report contains information gathered during the period under review, including concerning communications sent to States by representatives of various human rights mechanisms. The replies of States to such communications received by 19 March 2010 have also been included. In this chapter the Secretary-General provides an account of situations in which persons have reportedly been intimidated or suffered reprisals for having cooperated with the United Nations, its representatives and mechanisms in the field of human rights; for having availed themselves of international procedures; for having provided legal assistance for this purpose; and/or as relatives of victims of human rights violations. It should be noted that, in some instances, it has not been possible to record in this report additional cases due to specific security concerns or because the individuals exposed to reprisals have explicitly requested that their cases not be raised publicly.

Chapter III provides concluding remarks. The report underlines the continued gravity of intimidation and reprisals as victims suffer violations of many human rights. The seriousness of reported acts of reprisal reinforces the need for the United Nations, its representatives and mechanisms in the field of human rights in cooperation with States to continue to take urgent steps to help prevent such acts and ensure that they are not treated with impunity. It is imperative that all acts of intimidation and reprisals are promptly and effectively prosecuted and addressed in an appropriate manner. Perpetrators should be brought to justice and victims provided with appropriate remedies in order to combat impunity. Denouncing such acts publicly and reporting them to the appropriate human rights mechanisms will also contribute to combating related impunity.

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## I. Introduction

1. In its resolution 12/2, the Human Rights Council expressed its concern at the 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 (a) at the seriousness of such reported reprisals and the fact that victims suffer violations of their human rights, including the rights to life, liberty and security of person, as well as the right to freedom from torture and cruel, inhuman or degrading treatment, and (b) at reports of incidents in which individuals have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms.

2. In the same resolution, the Human Rights Council invited the Secretary-General to submit a report to it on alleged reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights, in particular with regard to those persons referred to in paragraph 1 of the resolution.

3. The cooperation of individuals and groups with the United Nations in the field of human rights in a free and safe manner is key to ensuring an efficient and results-oriented approach to the promotion and protection of human rights. The importance of this cooperation has been affirmed in several documents.

4. In the 2005 World Summit Outcome,<sup>1</sup> Heads of State and Government reaffirmed the importance of civil society in the work of the United Nations. In particular, they welcomed the positive contributions of the private sector and civil society, including non-governmental organizations (NGOs), in the promotion and implementation of development and human rights programmes and stressed the importance of their continued engagement with Governments, the United Nations and other international organizations in those key areas (para. 172).

5. Pursuant to General Assembly resolution 60/251 establishing the Human Rights Council, the Council is mandated to work in close cooperation in the field of human rights with Governments, regional organizations, national human rights institutions and civil society.

6. In several resolutions of the Human Rights Council establishing or renewing the mandate of special procedures, the importance of special procedures working with individuals from civil society and receiving information from all credible sources, including victims of violations, has been highlighted. The ability of victims, their family members, witnesses, human rights defenders and members of civil society to raise concerns with the mandate holders of the special procedures of the Council without fear of retaliation is vital to the ability of mandate holders to discharge their respective mandates. The terms of reference for fact-finding missions by Special Rapporteurs/representatives of the Commission on Human Rights (E/CN.4/1998/45, appendix V), as assumed by the mandate holders of the Human Rights Council, therefore stipulate that special procedures should be given assurance by Governments that “no persons, official or private individuals who have been in contact with the special rapporteur/representative in relation to the mandate will for this reason suffer threats, harassment or punishment or be subjected to judicial proceedings”.

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<sup>1</sup> General Assembly resolution 60/1.

7. In determining the modalities of its universal periodic review, in its resolution 5/1 the Human Rights Council also stated that the mechanism should ensure the participation of all relevant stakeholders, including NGOs and national human rights institutions, in accordance with General Assembly resolution 60/251 and Economic and Social Council resolution 1996/31, as well as any decisions that the Council may take in this regard. The Human Rights Council further stated that one of the objectives of the review should be the encouragement of full cooperation and engagement with the Council, other human rights bodies and the Office of the United Nations High Commissioner for Human Rights (OHCHR). Documentation for the universal periodic review should comprise additional, credible and reliable information provided by other relevant stakeholders to be taken into consideration by the Council in the review.

8. In General Assembly resolutions on various international instruments and their related monitoring bodies, working with civil society, in particular NGOs, has been highlighted as important and has been encouraged.<sup>2</sup>

9. As respect for human rights is a pillar of the United Nations, everyone should have the opportunity to interact with the Organization, its representatives and mechanisms in the field of human rights without fear. The continued occurrence of intimidation and reprisals due to cooperation with the United Nations on human rights issues is of deep concern and has been addressed by several United Nations bodies and mechanisms.

10. In her statement before the Human Rights Council on 4 March 2010, the United Nations High Commissioner for Human Rights indicated that she has information, as have special procedures, that individuals have faced reprisals following their cooperation with human rights mechanisms. She urged States to ensure that those who are in contact with special procedures are protected against reprisals.

11. Several special procedures mandate holders have established specific procedures to address and give visibility to cases of reprisals to help curb this phenomenon. For example, the Special Rapporteur on extrajudicial, summary or arbitrary executions dedicated a part of his 2009 report to the Human Rights Council (A/HRC/11/2) to the issue of protecting persons cooperating with special procedures from reprisals. The Working Group on Arbitrary Detention has also decided to include in its annual report any case of reprisals for cooperation with the Working Group brought to its attention. In this context, it is worth mentioning that, within the mandate of the Special Rapporteur on the situation of human rights defenders, established by the Council in its resolution 7/8, the Special Rapporteur was requested, *inter alia*, “to seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms”.

12. By making cases of reprisals public as requested by the Human Rights Council, the present report contributes to the fight against impunity with regard to reprisals and intimidation for cooperation with the United Nations, its representatives and mechanisms in the field of human rights, with the aim of curbing these unacceptable practices.

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<sup>2</sup> See for example General Assembly resolutions 63/243 on the International Convention on the Elimination of All Forms of Racial Discrimination or 64/138 on the Convention on the Elimination of All Forms of Discrimination against Women.

## **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**

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

(a) 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;

(b) 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;

(c) 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;

(d) Are relatives of victims of human rights violations or of those who have provided legal or other assistance to victims.

14. In cases in which the victims of reprisals, whether individuals or organizations, have been in contact with one of the bodies or mechanisms of the Council or treaty bodies, protective action was taken by the relevant mandate holders or bodies. Urgent appeals or allegation letters were in some cases addressed to the States concerned. Summaries of replies received from States have been included in the present report.

15. It should be noted that in some cases it has not been possible to record in the present report particular cases due to specific security concerns or because the individuals exposed to reprisals have explicitly requested that their cases are not raised publicly. It should also be noted that almost all the information contained in the report is also reflected in the reports of each specific mechanism presented to the General Assembly or the Human Rights Council.

16. The cases described in the present report do not represent the totality of acts of intimidation or reprisal 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. Such acts may in many instances go unreported due to lack of knowledge about the possibility to report cases of reprisals, lack of access to appropriate means of communication or fear of further reprisals.

17. During the period under review, information was received about acts of intimidation or reprisal following cooperation with the Secretary-General, the Security Council, special procedures, treaty bodies and the universal periodic review mechanism.

### **B. Summary of cases**

18. The following paragraphs cover a variety of situations in which persons have been intimidated or suffered reprisals for having sought to cooperate or having cooperated with the United Nations, its representatives and mechanisms in the field of human rights, for

having availed themselves of international procedures, for having provided legal assistance for this purpose and/or as relatives of victims of human rights violations.

#### **1. Algeria**

19. On 8 January 2009, an allegation letter was sent by the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders, concerning Moussa Bourefis. Mr. Bourefis, who is a medical student and intern in obstetric gynaecology at the Centre Hospitalier Universitaire (CHU) in Constantine, had allegedly been the subject of intimidations following his meeting with the Working Group on Enforced or Involuntary Disappearances in November 2008. Mr. Bourefis risked losing his internship at the hospital as a result. The pressure on the administration of the faculty and CHU in Constantine may have been designed to force him to cease his human rights activities for the families of the disappeared.

#### **2. Colombia**

20. The Special Rapporteur on the situation of human rights defenders visited Colombia from 7 to 18 September 2009, to assess the situation of human rights defenders in the country. She met with senior Government officials and a broad range of defenders in the capital and in four regions.

21. In her mission report, the Special Rapporteur stated that she “was notably very disturbed to learn that, in Barranquilla, just a few hours prior to the meeting she held with local defenders, threats were reportedly sent to the organizers of the meeting” (A/HRC/13/22/Add.3, para. 15).

#### **3. Democratic Republic of the Congo**

22. The Special Rapporteur on summary, arbitrary and extrajudicial executions undertook a fact-finding mission in the Democratic Republic of the Congo from 5 to 15 October 2009. On 15 October, he sent a communication to the Government to protest against the authorities’ interference with his mission. In the communication, the Special Rapporteur indicated that when he travelled to Kisantu in Bas Congo on 13 October 2009, as part of his official mission to the country, he was prevented from speaking with witnesses who had witnessed the killings of large numbers of Bundu Dia Kongo (BDK) supporters in recent years. The Special Rapporteur further stated that this interference with his ability to carry out his official mission was apparently ordered by the Governor of the Province and carried out by the Mayor of Kisantu. The situation was further exacerbated by the fact that as soon as he left Kisantu, the person who had arranged the planned meeting for him was detained by the police. The return of the Special Rapporteur to Kisantu was required in order to secure his release. Moreover, the Special Rapporteur emphasized that he remained concerned about the security of the individual who was detained as well as that of the other witnesses. No response to this communication has been received to date.

#### **4. Guatemala**

23. Various indigenous organizations from Guatemala, including the Coordinadora Nacional de Viudas de Guatemala and the Movimiento de Jóvenes Mayas, as well as Maya Ixiles communities affected by hydroelectric plants and 12 communities affected by the cement works in San Juan Sacatepéquez, participated in the seventy-sixth session of the Committee on the Elimination of Racial Discrimination in Geneva in February 2010, during which they presented a report on the situation of the indigenous peoples and human rights defenders in Guatemala. Since this participation in the session, these organizations have

been subject to grave public declarations circulating on the Internet, and through e-mails, which label the representatives of these organizations as “terrorists”, “Taliban of Guatemala/Groups of Al-Qaida”, and “bad Guatemalans”. The Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people have received information regarding this situation.

## **5. India**

24. On 29 July 2009, an allegation letter was sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences, regarding Dr. Harshinindar Kaur. Representing the Mbororo Social and Cultural Development Association, Dr. Kaur delivered a public statement to the eleventh session of the Human Rights Council in Geneva in June 2009, as part of the general debate on item 3 of the Council agenda. Her written and oral statement pertained to violence against women, and more particularly to concerns of human rights violations against women in India in the form of female foeticide, female infanticide, dowry practices and rape. In the statement, Dr. Kaur expressed general concern about these human rights violations and provided some supporting statistics.

25. Reportedly, following the statement of the afternoon of 8 June, Dr. Kaur was approached by a person who identified herself as a “very senior Government official of India” in the Palais des Nations building in Geneva, and was verbally threatened with retaliation. The aforementioned individual allegedly threatened Dr. Kaur by telling her that high-ranking officials in India and the Punjab region had been contacted about her statements, inquiring about her family’s whereabouts, and telling her that she could harm her once she was back in India. Subsequently, an employee described as being from the central Government (the Central Bureau of Investigation), visited Dr. Kaur’s house in the Punjab region, to enquire about her statement at the Human Rights Council.

26. On 29 December 2009, the Government of India replied to the communication sent by the Special Rapporteurs, stating that it had examined the communication and found the allegations to be inaccurate. No Government of India official contacted the subject in Geneva on 8 June 2009. As regards the allegation of a visit by an official of the Bureau to her house in Punjab, the allegation had been investigated by the local office of the Bureau, which found it to be untrue. Subsequent to the allegation, the Bureau contacted the subject and provided her with contact details to help her should she be approached in future by any person acting in the name of the Bureau.

## **6. Iran (Islamic Republic of)**

27. On 3 June 2009, the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent a joint urgent appeal to the Islamic Republic of Iran concerning Ayatollah Sayed Hossein Kazemeyni Boroujerdi. He was sentenced to 11 years’ imprisonment in 2007. There are reports that he had been subjected to torture and ill-treatment since his arrest and denied adequate treatment for Parkinson’s disease, diabetes, high blood pressure, kidney disease, asthma and a heart condition. Ayatollah Boroujerdi is an advocate for democratic elections in the Islamic Republic of Iran. According to information received, Ayatollah Boroujerdi wrote an open letter dated 29 April 2009 to the United Nations Secretary-General requesting that international experts hold a meeting on



the Islamic Republic of Iran, in an effort to assist the Iranian people to hold an open referendum. On 5 May 2009 he was reportedly subjected to beatings.

## **7. Israel**

28. OHCHR has received information in relation to efforts by the Government of Israel to decrease financial support available to human rights organizations working in the Occupied Palestinian Territory, in particular those that cooperated with the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/13/55, para. 46). In addition, a group of Israeli NGOs sent an open letter to senior officials of the Government of Israel, raising concerns related to increasing assaults on human rights organizations, including those that cooperated with the Fact-Finding Mission, and stating that senior Government officials and Israeli security authorities, subsequent to the submission of the report of the Fact-Finding Mission, have sought to undermine the legitimacy of and otherwise restrict the activities of civil society organizations working on human rights. In a meeting with senior United Nations officials in March 2010, Israel commented that these claims were without merit. Israel indicated that NGOs, both domestic and international, were an active part of the fabric of the country's democracy and that there was no effort to "delegitimize" their important work.

## **8. Kenya**

29. The Special Rapporteur on extrajudicial, summary or arbitrary executions visited Kenya from 16 to 25 February 2009. In his mission report (A/HRC/11/2/Add.6), the Special Rapporteur said that "many of the human rights defenders who testified before the Special Rapporteur during his mission were threatened and harassed by members of the security forces and other Government officials. Two activists who had been particularly active in reporting on police death squads were murdered just two weeks after the mission ended. There has been a systematic attempt to silence criticism of Kenyan security forces" (summary).

30. More specifically, the Special Rapporteur has received the following information. In the days preceding the arrival of the Special Rapporteur in Kenya's Western Province, representatives of the authorities told individuals not to speak with the Special Rapporteur about police and military abuses, and only to mention abuses by an armed group, the Sabaot Land Defence Force. On 17 February, officials told residents at one camp for internally displaced persons that the food aid upon which they depended would be jeopardized if they were critical of the military in their testimony to the Special Rapporteur.

31. On 18 February, staff of the Western Kenya Human Rights Watch (WKHRW) in Bungoma noticed the presence of intelligence officers outside their offices, where the Special Rapporteur was conducting interviews with victims and witnesses. On the following day, intelligence officers were outside the hotel where further interviews were being conducted.

32. On 19 February, officials visited the home of one representative of WKHRW (Eliu Siyoi Tendet) and asked him for the list of people who had testified before the Special Rapporteur. The military subsequently came to his home, but Mr. Tendet managed to escape. Another representative of WKHRW, Job Wahdalia, also received calls from officials asking for the names of those who testified. Mr. Wahdalia, Mr. Tendet and Eric Wambasi of WKHRW and Taiga Wanyanja of the Muratikho Torture Survivor's Organisation all fled the area to ensure their safety. Subsequently, the families and colleagues of each of them have been harassed as to their whereabouts.

33. On 1, 2 and 4 March 2009, a week after the conclusion of the visit and after the Special Rapporteur had brought the matter to the attention to the Ministry of Foreign

Affairs and the Ministry of State for Provincial Administration and Internal Security, Kenya Police officers entered the offices of WKHRW. They demanded from the remaining staff a list of the victims and witnesses who had spoken to the Special Rapporteur.

34. On 5 March 2009, two human rights defenders who had been in contact with the Special Rapporteur in the course of his visit, Oscar Kamau Kingara, the founder and Chief Executive Officer of the Oscar Foundation Free Legal Aid Clinic, and John Paul Oulu, its Communications and Advocacy Director, were killed in Nairobi.

35. Already in his statement to the press at the conclusion of the mission, the Special Rapporteur publicized the intimidation of human rights defenders that had cooperated with him. A few hours after the killing of Mr. Kingara and Mr. Oulu the Special Rapporteur issued a press release. He stated, *inter alia*, “that it was inevitable under the circumstances for suspicion to fall upon the police in relation to these killings” and that it was “imperative, if the Kenyan Police are to be exonerated, for an independent team to be called from somewhere like Scotland Yard or the South African Police to investigate”. He noted that “there is no existing independent unit capable of investigating possible police misconduct in Kenya”. On 6 March 2009, in presenting before the Human Rights Council the report of the Secretary-General on progress on reports and studies relevant to cooperation with representatives of the United Nations human rights bodies, the Deputy High Commissioner for Human Rights orally mentioned this case. The delegation of Kenya took the floor and stated its commitment to human rights and to cooperation with special procedures, and promised an investigation into the matter. No information about such an investigation is available to date.

36. A related urgent appeal was sent on 13 March 2009 by the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders.

## **9. Mauritania**

37. On 22 February 2010, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, sent an allegation letter to the Government of Mauritania on the situation of Biram Ould Dah Ould Abeid, adviser to the National Commission of Human Rights, President of the Initiative for the Resurgence of the Abolitionist Movement in Mauritania, and staff member of SOS Esclaves.

38. Following the official visit of the Special Rapporteur on contemporary forms of slavery to Mauritania in October and November 2009, with whom Mr. Ould Dah Ould Abeid shared information, the news website *elbidaya.net* reportedly published an anonymous article defaming the latter. The article was relayed by several Mauritanian websites. In addition, during the same period, an unidentified individual tried to break into the house of Mr. Ould Dah Ould Abeid, then ran away.

## **10. Myanmar**

39. On 21 July 2009, the Working Group on Arbitrary Detention received allegations that Tin Min Htut and U Nyi Pu had been sentenced to 15 years of imprisonment under laws criminalizing the upsetting of public tranquillity and peace, following their mobilizing of 92 other members of parliament to sign a letter to the Secretary-General and the Security Council that criticized the Government of Myanmar and the United Nations itself and which was published on the Internet (A/HRC/13/30, para. 31). The case has been

transmitted to the Government of Myanmar and is pending with the regular procedure of the Working Group leading to the adoption of an Opinion.

## 11. Sri Lanka

40. In a letter dated 17 March 2010, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government of Sri Lanka, in connection with the apparent existence of a worrying and increasing trend aimed at delegitimizing the activities of human rights organizations, individual human rights defenders and journalists working in Sri Lanka. Such attacks and threats have tangibly intensified following the eleventh special session of the Human Rights Council: “The human rights situation in Sri Lanka”, held on 26 and 27 May 2009. It is reported that the Human Rights Minister commented in *The Hindu* newspaper (1 April 2009) that “the people who go and sit in cafeterias in the UN and lobby people in a very subjective manner putting forward those kind of sentiments (against Sri Lanka) would be inviting a very stern response from the Government of Sri Lanka”.

41. In their letter, the Special Rapporteurs expressed their concern that the media campaigns, threats and harassment of and intimidation against a number of human rights defenders and journalists, in particular Sunanda Deshapriya, may be related to their legitimate activities in defence of human rights, in particular to their international advocacy and outreach efforts. Mr. Deshapriya, a prominent journalist and human rights defender, has been living in exile in Switzerland since May 2009, due to the threats received and the ongoing denigration campaign in the media following his participation and intervention at the tenth session of the Human Rights Council in March 2009 and the eleventh special session on Sri Lanka in May 2009. He has been accused of being a “traitor” and a “liar” due to his participation in the special session. Videos containing death threats against him have been posted on a social networking site; he has received numerous threatening text messages and has been vilified in television and radio shows and in a number of editorials.

42. Mr. Deshapriya, along with 30 other human rights defenders and journalists, appeared on a list published on the Sri Lankan news website *Lanka News Web* on 3 March 2010, allegedly compiled by the State Intelligence Service of Sri Lanka. The list contains the names of individuals who have been engaged in “international outreach” on issues related to human rights and grades them according to their perceived importance to the intelligence services. Several human rights defenders and journalists are referred to variously as providing several local and international outlets with information on human rights issues and internally displaced persons, as international platform speakers on media/human rights, and as persons who speak on human rights and media freedom and who are involved in advocacy overseas. While the purpose of the list remains unclear, it gives rise to a serious concern about the physical and psychological integrity of the individuals contained therein.

43. The Special Rapporteurs expressed further serious concern that some of the threats may be related to the fact that the people referred to above had cooperated with the Human Rights Council and special procedure mandate holders. Given the extent of the allegations, there was an overarching concern that the threats, attacks and negative media campaign may form part of a broader attempt to delegitimize the activities of human rights defenders who are critical of actions and policies of the Government. At the thirteenth session of the Human Rights Council, during the interactive dialogue with the High Commissioner for Human Rights, the delegation of Sri Lanka expressed its firm resolve not to countenance or tolerate acts of violence or intimidation against journalists and human rights defenders. This necessarily involved taking adequate measures to investigate and punish perpetrators of any violence against those persons. Sri Lanka also observed that the very amorphous

nomenclature of “human rights defenders” was used very loosely to encompass just about every form of activity however distantly associated with the sphere of human rights promotion and protection. The delegation explained that the Government of Sri Lanka had to discourage persons representing themselves as such and making assertions for collateral purposes of political gain and causing embarrassment to the Government in pursuit of extraneous agendas in the name of human rights.

## **12. Uzbekistan**

44. On 23 February 2009, the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to health, and the Special Rapporteur on the question of torture sent a joint urgent appeal to Uzbekistan regarding Erkin Musaev, whose detention had been declared arbitrary in Working Group Opinion No. 14/2008 (A/HRC/10/21/Add.1, p. 138). It was alleged that two officers from the National Security Service threatened that if he or his family did not withdraw their petitions or if they continued to make complaints to international human rights mechanisms or to spread news about the above-mentioned decision, they would face reprisals. Following this incident, Mr. Musaev was put under “special control”, that is, denied medical treatment and his movement within the territory of the penitentiary institution was restricted.

## **13. Venezuela (Bolivarian Republic of)**

45. On 16 December 2009, the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers sent a joint urgent appeal to the Bolivarian Republic of Venezuela regarding Judge María Lourdes Afiuni. They also published a press statement on this case on 16 December 2009. According to information received, Judge Afiuni was promptly arrested by intelligence police officers after having ordered the conditional release pending trial of Eligio Cedeño on 10 December 2009. Mr. Cedeño’s detention was declared arbitrary by the Working Group on Arbitrary Detention on 1 September 2009 in its Opinion No. 10/2009 (A/HRC/13/30/Add.1, p. 325), citing violations of the right to fair trial. His counsel team introduced the United Nations experts’ opinion at the hearing before Judge Afiuni on 10 December 2009, following which he was conditionally released after almost three years in detention without trial.

46. It is further alleged that in an appearance before Government officials, which was broadcast on national television and radio, the President of the Bolivarian Republic of Venezuela further demanded that Judge Afiuni be sentenced to a 30-year prison term, even if new legislation was required to achieve that result. President Chávez publicly instructed the Attorney-General and the President of the Supreme Court to punish Judge Afiuni as severely as possible, to prevent similar actions by other judges. He also suggested that Mr. Cedeño’s defence attorneys had engaged in criminal conduct in requesting his release. Attorney-General Luisa Ortega Díaz is reported to have given interviews to the press slandering the judge.

47. Judge Afiuni is said to have been charged with corruption, accessory to an escape, criminal conspiracy and abuse of power. She has been denied a public defender. It is also feared that Mr. Cedeño’s Venezuelan defence lawyers are under imminent threat of arrest.

## **14. Yemen**

48. On 2 December 2009, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to Yemen concerning the situation of Amal

Basha, Chair of the Sisters' Arab Forum for Human Rights. The forum is an NGO which monitors and documents cases of torture in Yemen.

49. In the evening of 22 November 2009, the offices of the Sisters' Arab Forum for Human Rights were broken into by unknown individuals and the premises were searched, materials in the archives were compromised and some electronic equipment was damaged. On 20 and 21 November 2009, Ms. Basha received a number of anonymous intimidating phone calls. On 17 November 2009, the rear brakes of her car were allegedly tampered with. Furthermore, Ms. Basha was the subject of a simulated acid attack when she was leaving the Criminal Court where she had been observing the trial of a political activist.

50. The attacks and acts of intimidation may be the result of the intervention of Ms. Basha on 24 September 2009 at the Human Rights Council, during the adoption of the universal periodic review report on Yemen. The Sisters' Arab Forum for Human Rights also presented a shadow report to the Committee against Torture at its forty-third session, held from 2 to 20 November 2009, which had been prepared in collaboration with 13 other Yemeni human rights organizations.

51. The Chair of the Committee against Torture, on behalf of the Committee, sent a letter to the Government of Yemen asking it to provide, as a matter of urgency, information on these allegations and on the measures taken to fulfil the implementation of the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the State party, especially to ensure that complainants and witnesses are protected against ill-treatment and intimidation as a consequence of a complaint or evidence given, as provided for in article 13 of the Convention.

### III. Conclusions

52. **Cases of intimidation and reprisals against individuals and groups who seek to cooperate with the United Nations regrettably continue to be reported. Family members and others who have provided assistance to victims of this intimidation and reprisals, including lawyers and representatives, continue to be threatened, harassed, intimidated and even killed.**

53. **Reprisals against individuals who seek to cooperate with the United Nations, its representatives and mechanisms in the field of human rights are not only a concern to the individuals directly affected, but also reflect a failure of States to allow free and open contacts with the United Nations human rights machinery.**

54. **Reprisals are intrinsically linked to intimidation. These disturbing phenomena are complementary in achieving the common aim of preventing individuals and groups of individuals from cooperating with the United Nations on human rights issues. While cases of intimidation take place in order to prevent the cooperation, cases of reprisals are reported after the cooperation has taken place. These acts have a very serious deterrent effect on people willing to cooperate with the United Nations, its representatives and mechanisms in the field of human rights.**

55. **States, in accordance with international human rights standards, should take measures to prevent intimidation and reprisals. This can be done, for example, by publicly supporting activities in defence of human rights and cooperation with the United Nations, its representatives and mechanisms in the field of human rights and by taking measures to inform the population about the different ways and means available to cooperate with the United Nations. It also includes ensuring that those who order or undertake such acts of intimidation or reprisal are subject to prosecution.**

56. It is imperative that all acts of intimidation and reprisal are promptly and effectively prosecuted and addressed in an appropriate manner in order to combat impunity. Perpetrators should be brought to justice and victims provided with appropriate remedies.

57. Denouncing such acts publicly and reporting them to the appropriate human rights mechanisms will also contribute to combating related impunity. Civil society can play an important role in this regard.

58. The Secretary-General calls on all relevant stakeholders, including the United Nations, its representatives and mechanisms in the field of human rights, to continue to give this issue the priority it deserves and to take all necessary measures to curb this unacceptable phenomenon. The practices of certain human rights mechanisms to collect information on cases of intimidation and reprisals and to make it public with the agreement of the victim could be usefully expanded in order to ensure that all cases of reprisals will be known and acted upon.

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