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## Human Rights Council

### Eighteenth session

Agenda item 2

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

## 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 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.

In the introduction, the efforts made to raise awareness of the issue of reprisals and intimidation and related efforts to combat it made by various stakeholders are highlighted.

The report contains information gathered during the period under review, from 20 March 2010 to 15 June 2011. It provides an account of situations in which persons have been reportedly intimidated or suffered reprisals for having cooperated with the United Nations, its representatives and mechanisms in the field of human rights. In some instances, it was not possible to record additional cases owing to specific security concerns or because the individuals subjected to reprisals explicitly requested that their cases not be raised publicly. This chapter also contains follow-up information received regarding cases mentioned in previous reports.

The report provides concluding remarks and recommendations.

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\* Late submission.

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## I. Introduction

1. In its resolution 12/2, the Human Rights Council reiterated 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 at the seriousness of such reported reprisals and the fact that victims suffer violations of their human rights, including the rights to life, to liberty and to security of person, as well as the right to freedom from torture and cruel, inhuman or degrading treatment. The Council also expressed deep concern regarding reports of incidents in which individuals had 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 resolution 12/2, the Human Rights Council invited the Secretary-General to submit a report to the Council on alleged reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights.
3. The issue of reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights received greater attention during the period under review.
4. The Office of the United Nations High Commissioner for Human Rights (OHCHR) takes this issue very seriously, as demonstrated by several interventions made by the High Commissioner and the Deputy High Commissioner. The High Commissioner has many times highlighted the threats and violence faced by human rights defenders and civil society activists. For example, during the fifteenth session of the Human Rights Council, in her statement made under item 2, the High Commissioner highlighted the threats and violence faced by human rights defenders and civil society activists.
5. Civil society has continuously raised attention to this phenomenon and to the need to address it with determination, including through the holding of side events, oral interventions in the context of the Human Rights Council and public statements. In addition, civil society has developed protection schemes for persons at risk of reprisals.
6. In certain resolutions on mandates of special procedures, the Human Rights Council makes specific reference to the issue of reprisals, such as the Working Group on Arbitrary Detention<sup>1</sup> and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.<sup>2</sup> The issue has also been raised in various interactive dialogues with special procedures mandate holders, such as with the Special Rapporteur on the situation of human rights defenders, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances.
7. The outcome of the review of the Human Rights Council contains a strong rejection of any acts 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, and urges States to prevent and ensure adequate protection against such acts.<sup>3</sup> In addition, some Member States have raised this issue in the context of the universal periodic review.

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<sup>1</sup> Human Rights Council resolution 15/18, para. 8.

<sup>2</sup> Human Rights Council resolution 16/23, para. 6 (c).

<sup>3</sup> Human Rights Council resolution 16/21, para. 30.

8. Positive developments have also been registered in the context of treaty bodies. Some instruments contain specific articles asking States parties to take all appropriate measures to ensure that individuals under their jurisdiction are not subjected to ill-treatment or intimidation as a consequence of communicating with the monitoring body of the said instrument.<sup>4</sup>

9. Some treaty bodies, including the Human Rights Committee and the Committee on the Elimination of Discrimination against Women, have made statements during dialogues with State parties urging them to ensure that individuals and non-governmental organizations providing information are not subjected to reprisals. This issue is also discussed in the context of the treaty body strengthening process.<sup>5</sup>

## **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**

10. 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

11. The report contains information gathered during the period under review, from 20 March 2010 to 15 June 2011. 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 Human Rights Council or treaty bodies, follow-up action was taken by the relevant mandate holders or bodies. In this context, urgent appeals or allegation letters were addressed to the States concerned. Summaries of these communications and the related replies received from States have been included in the present report.

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<sup>4</sup> See the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, article 11, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, article 13 and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, article 15.

<sup>5</sup> See the Seoul statement on strengthening the United Nations human rights treaty body system, available at [http://www2.ohchr.org/english/bodies/HRTD/hrtd\\_process.htm#seoul](http://www2.ohchr.org/english/bodies/HRTD/hrtd_process.htm#seoul), and the Dublin statement on the process of strengthening the United Nations human rights treaty body system, available from <http://www2.ohchr.org/english/bodies/HRTD/docs/DublinStatement.pdf>.

12. The cases described in the 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. Indeed, in some cases, it was not possible to report particular cases owing to specific security concerns or because the individuals exposed to reprisals had explicitly requested that their cases be not raised publicly. While in some instances these security concerns were related to the specific circumstances of the case, in others, the security concerns illustrate a general pattern of intimidation and harassment in a particular country. Moreover, such acts may, in many instances be unreported owing to a lack of knowledge of the possibility of reporting cases of reprisals or lack of access to appropriate means of communication.

13. Almost all the information contained in the present report is also reflected in United Nations public reports, including reports submitted to the General Assembly or the Human Rights Council by the Secretary-General, the High Commissioner or by each specific mechanism.

14. During the period under review, information was received about acts of intimidation or reprisal following cooperation with OHCHR, the Human Rights Council, the United Nations Voluntary Fund for Indigenous Populations, special procedures, treaty bodies and the universal periodic review mechanism.

## **B. Summary of cases**

### **1. Bahrain**

15. On 22 March 2011, several special procedures mandate holders sent an urgent appeal<sup>6</sup> concerning the situation of Abduljalil Al Singace, Hassan Mushaima, Abdul Ghani Al Kanja, Abdulhadi Alkawaja and Nabeel Rajab. Mr. Al Singace is the head of the human rights office of the Haq Movement. Mr. Mushaima is President of the Haq Movement. Mr. Al Kanja is the spokesperson for the Bahraini National Committee for Martyrs and Victims of Torture. Mr. Alkhawaja was, until recently, the Front Line protection coordinator for the Middle East and North Africa region, and Mr. Rajab is the President of the Bahrain Centre for Human Rights.

16. On 17 March 2011, both Mr. Al Singace and Mr. Mushaima were arrested by the Bahraini security apparatus. It is alleged that the arrests were made in the aftermath of a security operation carried out by the security forces with the objective of removing protesters from Pearl Roundabout, Manama. At the time when the communication was sent, the fate and whereabouts of Mr. Al Singace and Mr. Mushaima were unknown.

17. According to previous information received, on 13 August 2010, Mr. Al Singace was arrested and detained upon his return to Bahrain from London, where he reportedly spoke at the House of Lords about torture in Bahrain. Mr. Al Singace was put on trial for being a member of an alleged terrorist network. During the trial, it emerged that Mr. Al Singace had been allegedly subjected to torture and other forms of ill-treatment while in detention. Mr. Al Singace was released from prison on 23 February 2011, in the wake of civil unrest in Bahrain. However, it is reported that the charges against him have not been formally dropped.

18. On 15 August 2010, Mr. Al Kanja was arrested and detained in Bahrain upon his return from London, where he and Mr. Al Singace had addressed the House of Lords on torture in Bahrain. Mr. Al Kanja was also put on trial for being a member of an alleged terrorist group. It is alleged that he too was subjected to torture and other forms of ill-

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<sup>6</sup> A/HRC/17/27/Add.1, paras. 191-205.

treatment while in detention. On 23 February 2011, Mr. Al Kanja was released from prison. However, it is reported that the charges against him have not been formally dropped.

19. Mr. Al Singace and Mr. Al Kanja have actively engaged with the United Nations human right mechanisms, including the Human Rights Council and the Committee against Torture, and have openly spoken at the international level about alleged human rights violations in Bahrain.

20. According to the information received, on 10 March 2011, a number of social networking sites allegedly posted death threats against Mr. Alkhawaja, accusing him of treason. The messages reportedly contained personal information about Mr. Alkhawaja, including his address, phone number, personal identification number and profession. It is reported that such information is normally found on Bahraini national identity cards. Details about the type of car driven by Mr. Alkhawaja were also made available on the sites. Text messages were also circulated containing similar death threats against Mr. Alkhawaja.

21. Mr. Alkhawaja has openly discussed human rights concerns in Bahrain with a number of international human rights organizations, including those of the United Nations system. According to the information received, Mr. Rajab has also been involved in reporting to the United Nations. He also participated in the universal periodic review, the sessions of the Human Rights Council, the Committee against Torture and the Committee on the Elimination of Racial Discrimination.

22. Serious concerns have been expressed that the situation of the above-mentioned human rights defenders may be linked to their work, in particular their engagement with United Nations bodies.

23. On 26 May 2011, the Government sent a response<sup>7</sup> to the communication, in which it stated that part of the information about the persons allegedly arrested was inaccurate, as among the above-mentioned persons, only Mr. AlSingace, Mr. Mushaima and Mr. Alkawaja had been arrested to date. The Government also indicated that Mr. Al Kanja, who had been reportedly involved in the commission of crimes against the security of Bahrain, had to date not been arrested, although the relevant judicial authorities had issued a warrant for his arrest. Moreover, the Government stated that no legal action had been taken against Mr. Nabeel Rajab and that he had not been arrested as alleged in the above-mentioned communication.

24. Mr. Abdulhadi Alkhawaja has been the subject of two further communications sent by several special procedures mandate holders on 12 April 2011 and 20 May 2011.<sup>8</sup> According to the information received, on 9 April 2011, Mr. Abdulhadi Alkhawaja was arrested, held incommunicado, presented for trial and allegedly subjected to torture and other forms of ill-treatment while in detention. Serious concerns were expressed that his right to a fair trial had not been respected amid allegations that access to his lawyer has been restricted and that his situation may be linked to his legitimate work in the defence of human rights, in particular his work with international human rights organizations. The Government responded to the latest communications on 7 and 8 June 2011. Unfortunately, no translation was available at the time of completion of the present report.

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<sup>7</sup> A/HRC/18/51.

<sup>8</sup> Ibid.

## 2. Bangladesh

25. On 14 March 2011, two special procedures mandate holders sent an urgent appeal<sup>9</sup> regarding the situation of the Dhaka-based human rights organization Odhikar and, in particular, of Adilur Rahman Khan, its Secretary Advocate.

26. Since October 2010, the activities of Odhikar and, in particular, of the Secretary Advocate, Mr. Rahman Khan, have been increasingly monitored by the Bangladeshi authorities. The increased surveillance of Odhikar allegedly follows the submission by the organization of various project proposals to the national NGO Affairs Bureau, an office that regulates activities of non-governmental organizations in Bangladesh. It is reported that the content of the proposals did not please the authorities. Odhikar often works in close contact with the United Nations and other international human rights organizations and bodies. In 2008, Odhikar submitted information to OHCHR in the context of the universal periodic review of Bangladesh by the Human Rights Council, which took place in February 2009, and has since featured in several international human rights reports. According to the information received, after the engagement with the universal periodic review process, Odhikar was threatened and harassed by Government officials of different levels, and authorities increased the monitoring of its activities.

27. At the time of completion of the present report, the Government of Bangladesh had sent an acknowledgement of receipt of the communication sent by the special rapporteurs.

## 3. Belarus

28. On 28 January 2011, several special procedures mandate holders sent an urgent appeal<sup>10</sup> regarding allegations that the Belarusian Helsinki Committee, an independent, non-political, non-profit public association that works to promote and protect human rights, had been requested by the Ministry of Justice to submit to the Ministry a copy of the letter it had addressed to the Special Rapporteur on the independence of judges and lawyers.

29. On 12 January 2011, the Committee declared on its website that it had sent a letter to the Special Rapporteur. Immediately afterwards, the head of department of non-commercial organizations of the Ministry of Justice reportedly requested the Committee to provide him with the text of the letter within 30 minutes. On the same day, a statement was issued by the Ministry of Justice accusing the Committee of distorting information contained in reports issued by the Ministry regarding the demonstrations. The Ministry also alleged that the information sent by the Committee to international organizations depicted a distorted view of the current state of affairs in the country and that such conduct was tantamount to a violation of domestic legislation governing non-governmental organizations.

30. On 1 February 2011, the Government of Belarus sent a response to the communication, but did not provide information relating to the situation of the Belarusian Helsinki Committee.

## 4. China

31. On 30 April 2010, several special procedures mandate holders sent an urgent appeal<sup>11</sup> regarding Cao Du, the founder and Director of the Mongol Yurt Association, an organization promoting the rights of Mongolian people in China.

32. Mr. Du is a grantee of the United Nations Voluntary Fund for Indigenous Populations, a programme administered by OHCHR. As such, Mr. Du was granted travel

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<sup>9</sup> A/HRC/17/27/Add.1, paras. 238-244.

<sup>10</sup> Ibid., paras. 279-289.

<sup>11</sup> A/HRC/15/37/Add.1, paras. 169-173.

funds to attend the ninth session of the Permanent Forum on Indigenous Issues, from 19 to 31 April 2010, at Headquarters.

33. On 18 April 2010, Mr. Du was allegedly arrested by the police at Beijing Capital International Airport before he could board his flight to New York to attend the Forum session. At the time when the communication was sent, the whereabouts of Mr. Du were still unknown.

34. On 19 April 2010, members of the local police of Chao Yang City, Liao Ning Province, allegedly raided Mr. Du's house and confiscated his personal computers, his wife's laptop computer, their cellular phones and other papers and documents.

35. On 9 July 2010, the Government of China responded that, since Mr. Du had engaged in counterfeiting book registration numbers and illegally publishing and selling books, and was suspected of being involved in illegal crimes, he had been arrested and detained by the Liaoning Chaoyang Public Security Office on 20 April 2010. His case is currently being tried. According to the Government, all his rights are guaranteed in accordance with the law.

36. According to the most recent information received, Mr. Du remains under house arrest and the trial date has not been confirmed.

## **5. India**

37. On 16 February 2011, two special procedures mandate holders sent an urgent appeal<sup>12</sup> regarding the case of Julfikar Ali, a district human rights monitor of the non-governmental human rights organization MASUM, in the Murshidabad district of West Bengal.

38. On 2 January 2011, an unidentified plainclothed police officer from the Raninagar Police Station went to the house of Mr. Ali, who was away at the time. The police officer informed Mr. Ali's family that an arrest warrant had been issued against Mr. Ali and that he should therefore give himself up immediately before the court of law. The complaint related to an incident that reportedly took place on the night of 11 January 2008, at the Kaharpara Border Security Force outpost. Mr. Ali, however, was reportedly not in the vicinity of the outpost that night.

39. On 13 January 2011, Mr. Ali made a statement on his case to the Special Rapporteur on the situation of human rights defenders in Kolkata, West Bengal, during her country mission to India. Following his engagement with the Special Rapporteur, it was reported that police visits to Mr. Ali's family home became more frequent.

40. On 11 February 2011, Mr. Ali, accompanied by Kirity Roy, the Secretary of MASUM, went to the District Court to surrender. Mr. Ali filed a petition before the Court for anticipatory bail, which was granted with a bond of 3,000 Indian rupees. On 14 February, the Court granted another anticipatory bail to Mr. Ali in relation to another complaint filed by the Border Security Force with a bond of 5,000 Indian rupees.

41. At the time of completion of the present report, the Government of India had sent an acknowledgement of receipt of the communication sent by the special rapporteurs.

42. On 28 March 2011, two special procedures mandate holders sent an urgent appeal<sup>13</sup> regarding the situation of Teesta Setalvad, Secretary of the organization Citizens for Justice and Peace, a Mumbai-based non-governmental organization. Ms. Setalvad had been advocating for the rights of victims and survivors of the violence that took place during the

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<sup>12</sup> A/HRC/17/27/Add.1, paras. 1060-1066.

<sup>13</sup> Ibid., paras. 1068-1074.



Gujarat riots of February 2002. Ms. Setalvad and Citizens for Justice and Peace have filed cases relating to the riots, and have been pressing for prosecution of the perpetrators of the riots since 2002.

43. In her professional activities as a lawyer providing legal support to victims of the Gulberg Society massacre, Ms. Setalvad had sent, on 5 and 7 October 2010, to R.K. Raghavan, the chairperson of the Special Investigation Team, letters voicing her concern regarding the lack of protection by the Team for witnesses and victims.

44. On 20 January 2011, Justices D.K. Jain, P. Sathasivam and Aftab Alam, the Supreme Court judges handling the case surrounding the Gujarat riots of February 2002, reportedly reprimanded Ms. Setalvad for sending copies of the above-mentioned letters dated 5 and 7 October 2010 to OHCHR. The court allegedly did not “appreciate” letters about the proceedings being sent to OHCHR and viewed such activity as interference in these proceedings.

45. On 17 February 2011, Ms. Setalvad was again allegedly issued with a verbal warning against writing to OHCHR by Justices D. K. Jain, P. Sathasivam and Aftab Alam.

46. Ms. Jaiswal, Ms. Setalvad’s lawyer, was allegedly told that her client had to promise not to send any further communication to OHCHR on information regarding the proceedings.

47. At the time of completion of the present report, the Government of India had sent an acknowledgement of receipt of the communication sent by the special rapporteurs.

## **6. Kenya**

48. On 30 April 2010, several special procedures mandate holders sent a communication<sup>14</sup> to the Government of Kenya concerning the case of Keneth Kirimi, a human rights activist working with the non-governmental organization Release Political Prisoners and member of Bunge la Mwananchi, a grass-roots movement fighting social injustice and promoting accountable leadership. He was arrested on 22 April 2010 by plainclothed police officers and was allegedly interrogated about his organization, the work carried out by the executive coordinator of the organization, the organization’s work on extrajudicial killings and the sharing of their report with the then Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. At the time of completion of the present report, the Government of Kenya had not responded to the communication.

## **7. Malawi**

49. On 28 March 2011, two special procedures mandate holders sent an urgent appeal<sup>15</sup> on the general situation of human rights defenders in Malawi and the reported campaign against civil society.

50. According to the information received, the Government of Malawi allegedly began a public campaign of intimidation against human rights defenders in a bid to prevent public demonstrations demanding reforms. It was alleged that Government officials had publicly stated that they were prepared to utilize any means necessary in order to quell the climate of discontent.

51. It was further reported that the President had made comments regarding a group of human rights defenders who had presented a statement at the sixteenth session of the Human Rights Council. The President allegedly declared that “there is a group of 15 people

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<sup>14</sup> A/HRC/17/28/Add.4, para. 51.

<sup>15</sup> A/HRC/17/27/Add.1, paras. 1510-1520.

roaming in Europe saying that there is a violation of human rights because we don't allow university professors to teach revolution... We are waiting for them to come back and to tell us what their agenda is". A local newspaper reportedly published an article alluding to the possibility that United Nations aid to Malawi could be cut if human rights defenders continued their "irresponsible reporting" to the Council. State-controlled media allegedly relayed criticism expressed by Government officials about the initiative of human rights defenders perceived as negatively portraying the President to the Special Rapporteur on the situation of human rights defenders.

52. At the time of completion of the present report, the Government had not replied to this communication.

53. On 24 May 2011, by two special procedures mandate holders sent an urgent appeal<sup>16</sup> regarding threats against Benedicto Kondowe, the Executive Director of the Civil Society Coalition on Quality Basic Education. Mr. Kondowe had publicly denounced the Government of Malawi for allegedly violating human rights, particularly in the field of education.

54. On 21 April 2011, after three unknown men tried to locate Mr. Kondowe at his office and enquired about his whereabouts when they did not find him there, Mr. Kondowe reportedly received a phone call from an unknown man. The caller allegedly informed Mr. Kondowe that alerting the police and international bodies, such as United Nations agencies and international diplomatic missions, about the visit to his office by three unidentified men was not clever and such a move would not guarantee his safety. The caller also allegedly stated that Mr. Kondowe was being monitored because of his leadership of the Civil Society Coalition on Quality Basic Education. The caller then made reference to the work carried out by civil society organizations and criticized them for labelling the Government of Malawi as a human rights violator.

55. According to the information received, on 23 April 2011, Mr. Kondowe received another phone call from an unidentified man who advised him to leave the country. The caller allegedly stated that if Mr. Kondowe did not flee the country, he would pay for having publicly challenged the Government.

56. At the time of completion of the present report, the Government of Malawi had not replied to this communication.

## **8. Rwanda**

57. On 18 March 2011, two special procedures mandate holders sent an urgent appeal<sup>17</sup> regarding the situation of Pascal Nyilibakwe, the Executive Secretary of the Rwandan section of the Human Rights League of the Great Lakes, an independent, regional umbrella organization that works on human rights issues in Rwanda.

58. In September 2010, Mr. Nyilibakwe was forced to flee Rwanda as a result of a campaign of threats and harassment against him, allegedly linked to his role as Executive Secretary of his organization.

59. The Human Rights League of the Great Lakes became involved in preparing the civil society report under the universal periodic review process of Rwanda to be presented to the Human Rights Council in January 2011. In this connection, it is reported that, in September 2009, training sessions were organized by the League to raise awareness of the existing regional and international protection mechanisms available to human rights defenders. During the second training session, it is reported that a steering committee was

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<sup>16</sup> A/HRC/18/51.

<sup>17</sup> A/HRC/17/27/Add.1, paras. 1,968-1,976.

established to identify and investigate human rights issues with a view to drafting a report to be submitted as part of the universal periodic review process. The final report was shared with organizations that participated in the process and was submitted on 5 July 2010. It is alleged that, in September 2010, the League was targeted by a smear campaign led by some of the civil society organizations that had participated in the above-mentioned training sessions. These organizations reportedly disassociated themselves from the training and the report produced, stating that they had been falsely included in the report with the summary of the stakeholder's information to be submitted for the review. It is reported that these organizations did so as a result of the pressure on them to retract their support from the above-mentioned initiative.

60. Following the smear campaign, Mr. Nyilbakwe and the chairperson of the steering committee fled the country after receiving threats against themselves and their families.

61. At the time of completion of the present report, the Government of Rwanda had not replied to this communication.

## **9. Saudi Arabia**

62. On 12 May 2011, several special procedures mandate holders sent an urgent appeal<sup>18</sup> concerning the arrest of Fadhel Al Manasif, a well-known human rights defender, which was made in the context of increased restrictions being placed on the right to freedom of expression following amendments to the Press and Publications Law.

63. Over the past two years, Mr. Al Manasif has been involved in documenting human rights violations and disseminating the information gathered by the United Nations and international non-governmental organizations, as well as publishing it on social networking sites.

64. On 1 May 2011, at the request of officers of the Criminal Investigation Department of the Ministry of the Interior, Mr. Al Manasif presented himself at the Criminal Investigation Department in Al Awamieh, Eastern Province. According to the information received, Mr. Al Manasif was immediately arrested and detained, then transferred to the Criminal Investigation Department at Al Kutaief police station. It is alleged that Mr. Al Manasif was accused of inviting international media to demonstrations, as well as participating in and gathering information about demonstrations.

65. On 2 May 2011, it is alleged that Mr. Al Manasif was transferred to Al Thakbah police station, Al Manteka Al Sharkieh, where he was reportedly held in incommunicado detention.

66. It is alleged that, two days before he was arrested, Mr. Al Manasif was actively involved in the dissemination of information to international organizations regarding amendments made to the Press and Publications Law.

67. Concern has been expressed that the situation of Mr. Al Manasif may be related to his work in the defence of human rights, in particular, his involvement in the documentation and dissemination of information on human rights violations, as well as his engagement with United Nations mechanisms and other international human rights organizations.

68. At the time of completion of the present report, the Government of Saudi Arabia had not replied to this communication.

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<sup>18</sup> A/HRC/18/51.

## **10. Sri Lanka**

69. In her communications report (A/HRC/16/44/Add.1), the Special Rapporteur on the situation of human rights defenders expressed her concern about the reported climate of fear, including criminalization of threats and intimidation against human rights defenders, in Sri Lanka, particularly journalists and lawyers working on human rights issues. She was especially concerned at threats that may have been related to their cooperation with the Human Rights Council and special procedures mandate holders, which explains the lower number of complaints that the mandate received during the reporting period. It is my understanding that such a climate persists in the country.

## **11. Sudan**

70. On 23 November 2010, several special procedures mandate holders sent an urgent appeal<sup>19</sup> regarding the situation of human rights defenders, including that of Abdelrahman Mohamed Al-Gasim.

71. On 29 October 2010, Mr. Al-Gasim had been reportedly arrested by members of the National Intelligence and Security Services in Khartoum. It was alleged that Mr. Al-Gasim received threats from Sudanese officials while participating in the fifteenth session of the Human Rights Council in Geneva, in September 2010. Mr. Al-Gasim lobbied for the extension of the mandate of the independent expert on the situation of human rights in the Sudan, and delivered a number of oral interventions before the Council on alleged human rights violations committed by the Sudanese authorities in the country. He was also a panellist in a side-event entitled "Sudan: impunity, repression and conflict on the rise". Mr. Al-Gasim was scheduled to take part in the stakeholder's submission on the universal periodic review of the Sudan, and was also expected to attend the forty-eighth session of the African Commission for Human and Peoples' Rights, in Banjul in November 2010.

72. According to information received at the time of completion of the present report, Mr. Al-Gasim is no longer in detention.

73. At the time of completion of the present report, the Government of the Sudan had not replied to this communication.

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

### **1. Colombia**

74. Regarding the assassination of Edwin Legarda, mentioned in my report on progress in reports and studies relevant to cooperation with representatives of United Nations human rights bodies of 2009,<sup>20</sup> the delegation of Colombia indicated during the interactive dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, held at the fifteenth session of the Human Rights Council, that there has been some progress in the investigation of the case. According to the delegation of Colombia, "the fight against impunity continues to be a national priority and, as such, it is encouraging to know about the recent indictment to 40 years imprisonment of seven ex-militaries as the authors of the assassination of the indigenous leader Edwin Legarda on 16 December 2008."

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<sup>19</sup> A/HRC/16/44/Add.1, paras. 2131-2136.

<sup>20</sup> A/HRC/10/36, para. 9.

## 2, Guatemala

75. Regarding the case of various indigenous organizations from Guatemala included in my previous annual report,<sup>21</sup> two special procedures mandate holders sent an urgent appeal on 12 March 2010 expressing concern that the smear campaign against the above-mentioned organizations could be linked to their participation in the seventy-sixth session of the Committee on the Elimination of Racial Discrimination.

76. In a letter dated 21 May 2010, the Government of Guatemala replied to the urgent appeal sent by the special rapporteurs. The Government acknowledged the facts and made reference to a letter received by the human rights section of the Prosecutor's office with information on the cases. The Prosecutor's office requested the police to urgently ensure the safety of the organizations affected, as well as the physical and psychological integrity of the individuals. The Government indicated its readiness to provide any further information in the event that those affected decided to initiate legal proceedings.

## 3. Iran (Islamic Republic of)

77. With regard to the case of Ayatollah Sayed Hossein Kazemeyni Boroujerdi mentioned in my previous report,<sup>22</sup> he was the subject of another communication sent on 5 May 2010 by several special rapporteurs.<sup>23</sup> The Government of the Islamic Republic of Iran indicated by a letter dated 7 October 2010,<sup>24</sup> that Mr. Boroujerdi had been arrested on charges of establishing a sect with extremist persuasions, and acting and organizing efforts to destroy public property, setting fire to a number of motorcycles and buses and concealing two firearms. According to the Government, "he was sentenced to 10 years in prison after completion of judicial proceedings. No person is prosecuted in the Islamic Republic of Iran solely for his/her belief" or differences in ways of thinking. This case was further mentioned in the report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran.<sup>25</sup> At the time of writing of that report, the Iranian authorities stated that Ayatollah Boroujerdi was in good health, had access to medical services, enjoyed family visitation rights and had access to print and other forms of media.

## 4. Kenya

78. In his report on follow-up to country recommendations, on Kenya), the Special Rapporteur on extrajudicial, summary or arbitrary executions referred to the killings of two prominent human rights defenders – Oscar Kamau Kingara and John Paul Oulu – who were mentioned in my previous annual report,<sup>26</sup> with whom he had met.<sup>27</sup>

79. The Special Rapporteur recalled that the Government had been requested to provide information on the steps taken to ensure that all forms of violence, intimidation and harassment against human rights defenders, particularly those who have cooperated with the Special Rapporteur, were brought to an end. The Government had also been requested to provide information on the investigations and criminal proceedings regarding the killing of Mr. Kingara and Mr. Oulu. Two years later, the Government has yet to respond to the communication.

<sup>21</sup> A/HRC/14/19, para. 23.

<sup>22</sup> Ibid., para. 27.

<sup>23</sup> A/HRC/16/52/Add.1, para. 79.

<sup>24</sup> Ibid., para. 99.

<sup>25</sup> A/65/370, para. 5.

<sup>26</sup> A/HRC/14/19, paras 29-36.

<sup>27</sup> A/HRC/17/28/Add.4, para. 49.

80. The Special Rapporteur also stressed that the status of the investigation into the killing of the two defenders remains inconclusive. Recently, the Prime Minister made a public statement requesting that the investigation into the killings should resume. The Special Rapporteur further highlighted that it was important that the Government follow up on its public statements with action.

81. During the interactive dialogue with the current Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, at the seventeenth session of the Human Rights Council, the delegation of Kenya recalled that the Government had rejected the report of the previous mandate holder, Philip Alston, on his mission to Kenya.

## **5. Mauritania**

82. With regard to the case of Biram Ould Dah Ould Abeid mentioned in my previous report,<sup>28</sup> the Government of Mauritania responded, in a letter dated 4 May 2010,<sup>29</sup> to the allegation letter of 22 February 2010 sent by several special rapporteurs.

83. In its response, the Government of Mauritania stated that the Chairperson of the National Commission of Human Rights had requested the Ministry of the Interior and Decentralization to extend the professional passport of Mr. Ould Dah Ould Abeid, then member of the Commission. However, the request was turned down because, as it was considered that Mr. Ould Dah Ould Abeid's trip was for private purposes only, no travel authorization was issued by the Secretary-General of the Government for the trip. The Government also stated that Mr. Ould Dah Ould Abeid was working for the Initiative for the Resurgence of the Abolitionist Movement in Mauritania, an illegal organization in Mauritania, given that it has no legal existence in Mauritanian law. Despite this fact, the authorities said that Mr. Ould Dah Ould Abeid has always been able to travel on behalf of his organization without encountering any problem. The Government of Mauritania added that these allegations were unfounded.

84. Mr. Ould Dah Ould Abeid was the subject of two other communications, sent on 27 April<sup>30</sup> and 29 December 2010.<sup>31</sup> The Government responded to the latter on 10 February 2011.<sup>32</sup>

## **6. Myanmar**

85. With regard to the cases of Tin Min Htut and U Nyi Pu included in my previous report,<sup>33</sup> the Working Group on Arbitrary Detention, at its fifty-seventh session, adopted Opinion No.4/2010 on these two individuals, finding their detention arbitrary under categories II and III of the categories applicable to the consideration of the cases submitted to the Working Group. The Working Group found their detention to be in contravention of articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Working Group noted in its Opinion the roles of Mr. Htut and Mr. Pu as human rights defenders and that their detention and conviction were allegedly in relation to their acts of informing the United Nations about human rights violations. The Working Group also called on the Government to take the necessary steps to immediately release the individuals concerned and provide adequate reparations. The Opinion was adopted on 5 May 2010.

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<sup>28</sup> A/HRC/14/19, paras. 37 and 38.

<sup>29</sup> See A/HRC/16/44/Add.1, paras. 1519-1527.

<sup>30</sup> Ibid., paras. 1528-1532.

<sup>31</sup> A/HRC/17/30/Add.1, paras. 822-828.

<sup>32</sup> Ibid., paras. 829-846.

<sup>33</sup> A/HRC/14/19, para. 39.

## 7. Uzbekistan

86. Regarding the case of Erkin Musaev mentioned in my previous report,<sup>34</sup> the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent a joint urgent appeal on 21 March 2011. In the appeal, it was mentioned that, for the previous three months, Mr. Musaev had been regularly put into an isolation cell for periods of up to 15 days. On 15 February 2011, he was again placed in solitary confinement, then allegedly transferred to a medical unit of the prison owing to his deteriorating state of health. On 19 February 2011, Mr. Musaev was transferred to Tashkent Hospital, San Gorodok, where he was undergoing treatment; however, his family has not been allowed to see him. It is further reported that, while in isolation, Mr. Musaev was allegedly beaten by prison authorities. Mr. Musaev's family has been warned not to contact any Uzbek authorities nor to seek further information about Mr. Musaev. The Government responded to this communication on 12 May 2011. Unfortunately, at the time of completion of the present report, the translation of this response was not yet available.

## 8. Venezuela (Bolivarian Republic of)

87. Regarding the case of Judge Maria Lourdes Afiuni mentioned in my previous report,<sup>35</sup> the Government responded to the urgent appeal sent by several mandate holders on 28 July 2010.<sup>36</sup> Judge Afiuni was the subject of two other joint communications, sent on 1 April and 26 July 2010.<sup>37</sup> The United Nations High Commissioner for Human Rights mentioned the case of Ms. Afiuni in her statement at the tenth Biennial Conference of the International Association of Women Judges in Seoul and has subsequently engaged the Government on this particular case.

88. In September 2010, the Working Group on Arbitrary Detention adopted its Opinion No. 20/2010,<sup>38</sup> in which it stated that the detention of Judge Afiuni was arbitrary under the Working Group's categories I, II and III. The Working Group specifically mentioned this case in its 2010 annual report.<sup>39</sup> It reiterated its concern that the arrest and detention of Ms. Afiuni was an act of reprisal against her decision to release on bail Eligio Cedeño in the light of the recommendations made by the Working Group in its Opinion No. 10/2009, in which the Working Group ruled the detention of Mr. Cedeño as arbitrary. In its recommendations in 2010, the Working Group called for all States to cease the practice of reprisals. The Chairperson of the Working Group mentioned this case during his interactive dialogue with the Human Rights Council at its sixteenth session, and called on the Government of Venezuela (Bolivarian Republic of) to release Ms. Afiuni immediately. The Government replied that the rights of Ms. Afiuni were guaranteed and regretted the partiality of the report of the Working Group. It claimed that the Opinion of the Working Group had not included the explanations communicated by the Government and that this was not a case of reprisal.

89. The above case was also mentioned during the interactive dialogues with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on extrajudicial, summary or arbitrary executions during the seventeenth session of the Human Rights Council. The Government of Venezuela (Bolivarian Republic of) responded that it regretted "the biased treatment that the Special Rapporteur on the independence of judges

<sup>34</sup> Ibid., para. 44.

<sup>35</sup> A/HRC/14/19, para. 45-47.

<sup>36</sup> See A/HRC/16/44/Add.1, paras. 2427-2434.

<sup>37</sup> Ibid., paras. 2467-2477; A/HRC/16/52/Add.1, para. 245.

<sup>38</sup> A/HRC/16/47/Add.1.

<sup>39</sup> A/HRC/16/47, paras. 19-21.

and lawyers has given from the beginning to the case of the former Judge Maria Luisa Afiuni Mora, who is standing trial on charges of corruption and for favouring the escape of a banker now a fugitive from justice". According to the Government, "Ms. Afiuni disobeyed the sentence of the Supreme Court, which confirmed the judgement of the banker in detention and also incurred in a serious omission of the legal proceeding in order to facilitate the escape of the banker". The Government is of the opinion that, in the addendum to her report, the Special Rapporteur "echoes her concern for what she considers increasing criticism or attacks against the independence of lawyers in Venezuela without substantiating this". According to the Government, Ms. Afiuni mentions "sectors of the Latin American judiciary which point to an alleged "Afiuni effect" and refer to fear or even terror among judges without providing more details". The Government of Venezuela (Bolivarian Republic of) is of the opinion that "all these are mere speculations, which lack legal rigour and are the result of an intense media campaign of international powerful interests against the administration of justice in Venezuela". In her response during the interactive dialogue, the Special Rapporteur reiterated her concern at the detention of Judge Afiuni and asked that she be freed.

90. The Government highlighted to the Special Rapporteur on extrajudicial, summary or arbitrary executions the serious contradictions regarding the reference to the case of Judge Afiuni and her conditions of detention. The Government also reported that Ms. Afiuni was currently under house arrest for the duration of the treatment of an illness reportedly unrelated to her detention.

## 9. Yemen

91. With regard to the case of Amal Basha, the Chairperson of the non-governmental organization Sisters' Arab Forum for Human Rights referred to in my previous report,<sup>40</sup> the Committee against Torture, in its concluding observations on Yemen,<sup>41</sup> expressed its serious concern at information of threats against, and intimidation and harassment of, members of the organization, which had coordinated an alternative joint submission to the Committee and also briefed the latter during its session. The Committee was also concerned that such threats and intimidation might be related to the peaceful activities of the organization in promoting and protecting human rights, and in particular with monitoring and documenting cases of torture. The Committee deeply regretted the fact that the State party had not replied to the letter sent by the Committee Chairperson on 3 December 2009, in which the attention of the State party was drawn to this issue. The Committee then reiterated its request to the State party, as a matter of urgency, to provide information on the measures taken to implement, especially with regard to members of the Sisters' Arab Forum for Human Rights, articles 12, 13 and 16 of the Convention against Torture and paragraph 20 of the Committee's final concluding observations.

92. At the time of completion of the present report, no reply had been received from the Government of Yemen.

## III. Conclusions and recommendations

93. **As illustrated by the cases contained in the present report, intimidation and reprisals against those cooperating with the United Nations, its mechanisms and representatives in the field of human rights continue to be reported. This worrying phenomenon encompasses a wide range of manifestations, such as threats and**

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<sup>40</sup> A/HRC/14/19, paras. 48-21.

<sup>41</sup> CAT/C/YEM/CO/2/Rev.1, para. 32.



harassment by Government officials, including through public statement of high-level Government officials, increased monitoring of activities, arbitrary detention, torture and ill-treatment. In the present report, cases of reprisals for cooperating with OHCHR, the Human Rights Council and its special procedures and universal periodic review mechanism, the United Nations Voluntary Fund for Indigenous Populations and treaty bodies have been reported. These reports confirm that certain States continue to resort to reprisals to silence criticism and prevent individuals and groups from cooperating with the United Nations in the field of human rights.

94. Such a practice has very serious and deterrent consequences on the willingness and capacity of groups and individuals to provide information about what is happening in a given country and, in turn, on the capacity of the United Nations to report and react appropriately to human rights concerns. Free and unhindered contact and cooperation with individuals and civil society are indeed indispensable to enable the United Nations and its mechanisms to fulfil their mandate.

95. It should be noted that, in the drafting of the present report, there were again cases where it was not possible to report particular occurrences of reprisals owing to specific security concerns. A lack of awareness about the present report could also explain that certain cases of alleged reprisals were not reported.

96. Reprisals and intimidation against those cooperating with representatives of the United Nations in the field of human rights are very worrying practices and warrant a strong and decisive reaction. It is imperative that States take all necessary measures to guarantee that persons cooperating with the United Nations in the field of human rights will not be subjected to reprisals. In this context, I would like to make the following recommendations:

(a) States should ensure that all necessary measures are taken to prevent the occurrence of reprisals and intimidation; for example, States should publicly and unequivocally encourage people to cooperate with the United Nations in the field of human rights. The universal periodic review process can provide a useful platform in this regard and also raise awareness about the United Nations and its work in the field of human rights;

(b) All alleged acts of reprisals and intimidation should be investigated without delay, its perpetrators brought to justice and victims provided with appropriate remedies;

(c) Public and unambiguous condemnation of any acts of reprisal will also contribute to curbing this unacceptable practice. The fact that the Human Rights Council has adopted resolutions which contain a strong rejection of any acts of intimidation or reprisal is welcome. More, however, could be done;

(d) By means of the present report, the Human Rights Council is informed of alleged cases of reprisal. It is now incumbent upon the Council to ensure appropriate follow-up to this information. The Council should devote sufficient time and attention to the present report. It should also ensure that States concerned investigate any alleged acts of intimidation and reprisal and inform the Council accordingly. It would indeed be important that States in which reprisals have occurred report back to the Council on measures taken to investigate them, and where confirmed, on remedies provided, including prosecution and adequate compensation;

(e) As indicated in the present report, several United Nations human rights mechanisms have developed specific responses to the practice of reprisals, including through public statements, thereby contributing to its denunciation. These good practices could be further developed and adopted by all human rights mechanisms so as to build a coherent and unified response to this phenomenon;

(f) Civil society should also play its part by raising awareness about the present report, submitting reliable information on alleged cases of reprisals and continuing to publicly denounce reprisals and intimidation;

(g) The United Nations, its representatives and mechanisms in the field of human rights should continue their outreach to States and other relevant stakeholders to help to prevent the occurrence of acts of reprisal and intimidation and ensure that they are not treated with impunity;

(h) In any event, the consent of the victim of reprisal should be a *sine qua non* condition to undertake any action, as his or her security should be the ultimate priority.

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