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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

Human rights bodies and mechanisms

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

Report of the Secretary-General

Summary

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

The report contains information gathered from 15 June 2011 to 15 July 2012. Efforts made by various stakeholders to raise awareness of the issue of reprisals and intimidation, and related measures to combat such acts, are highlighted. The report 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 cases due to specific security concerns or because the individuals subjected to reprisals explicitly requested that their cases not be raised publicly. The report also contains follow-up information received regarding cases mentioned in previous reports, and concluding remarks and recommendations.

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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.

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

3. The outcome of the review of the Human Rights Council adopted in 2011 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.¹

4. On 21 October 2011, I participated in a high-level panel discussion on reprisals organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the margins of the sixty-sixth session of the General Assembly. Reiterating my condemnation of such acts and urging that any allegation of reprisal or intimidation should be investigated, I called for greater efforts to ensure that perpetrators are brought to justice, and that appropriate remedies for victims are provided. I also underlined that it was time to go beyond reporting and that States and United Nations human rights mechanisms need to do more. I commended civil society for its consistent efforts to encourage more effective responses.

5. OHCHR takes the issue of reprisals extremely seriously, as demonstrated by numerous interventions made by the High Commissioner and the Deputy High Commissioner. The High Commissioner has repeatedly raised concerns about the threats and violence faced by human rights defenders and civil society activists, including in relation to country-specific situations. In her opening statement at the twentieth session of the Human Rights Council on 18 June 2012, the High Commissioner underlined that the issue of reprisals had attracted particular attention during earlier Council sessions. She reaffirmed her strong condemnation of such acts and made clear that guaranteeing the safety and security of those who cooperate with human rights mechanisms is imperative. She stated that her Office would do its utmost to ensure that States respect their obligation to protect and that there is accountability for any acts of intimidation or reprisals.

6. The President of the Human Rights Council raised concerns about reprisals against human rights defenders. On 5 March 2012, during the nineteenth session of the Council, the President stated that it had come to her attention and that of the Bureau of the Human Rights Council that repeated incidents of harassment and intimidation of civil society representatives had taken place during the Council session. For instance, there had been

¹ Human Rights Council resolution 16/21, annex, para. 30; General Assembly resolution 65/281, annex, para. 30.

allegations of State delegates photographing and making videos of non-governmental organization (NGO) representatives without their permission. These allegations were taken very seriously and investigated by the United Nations. The President recalled that in its resolution 16/21, the Council rejected “any act 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 called for the Council to assume its responsibilities and ensure that those who wish to participate in its work can do so without fear of reprisals. The President also recalled the fundamental role of civil society in the work of the Council.

7. In the light of the fact that NGOs in consultative status with the Economic and Social Council have privileged access to the Human Rights Council and other United Nations mechanisms, I note how important it is that the Committee on Non-Governmental Organizations applies the criteria for assessing NGOs in a transparent and fair manner.

8. Special procedures continue to be vocal on the issue of reprisals against persons who have cooperated with the United Nations in the field of human rights. Notably, on 14 March 2012, a joint statement on reprisals was made at the nineteenth session of the Human Rights Council by the three rapporteurs on human rights defenders of the international and regional human rights systems, namely, of the United Nations, of the African Commission on Human and Peoples’ Rights and of the Inter-American Commission on Human Rights. In the statement, the mandate holders called for reprisals to cease immediately and for credible investigations into pending cases of reprisals to be carried out.²

9. Enhanced coordination by human rights mechanisms in relation to reprisals was exemplified by the joint statement by the Committee against Torture, the Subcommittee on Prevention of Torture, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, issued on 26 June 2012 to mark the United Nations International Day in Support of Victims of Torture. The statement reminded States of their obligation to protect and to ensure that individuals do not face reprisals or intimidation for cooperating with United Nations bodies.³

10. In her report on strengthening the United Nations human rights treaty body system, submitted in June 2012 (A/66/860), the High Commissioner for Human Rights recommended that all treaty bodies take urgent and consistent measures in case of reprisals against human rights defenders after engagement with the treaty body system, including through ensuring mechanisms for action and appointing focal points in the treaty bodies to draw attention to such cases (proposal 4.2.8). In addition, it was proposed that the treaty bodies act through other relevant mechanisms, such as relevant special procedures and OHCHR.

11. Article 15 of the Optional Protocol to the Convention against Torture imposes a positive obligation upon States parties to take action to ensure that there are no reprisals as a consequence of a visit by the Subcommittee on Prevention of Torture. The Subcommittee expects the authorities of each State visited to ascertain whether reprisals for cooperating with the Subcommittee have occurred and to take urgent action to protect all concerned. In this regard, the existence of national preventive mechanisms is of prime importance. At its

² OHCHR, press release on reprisals, 14 March 2012, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11957&LangID=E.

³ OHCHR, press release on the joint statement, 26 June 2012, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12287&LangID=E.

sixteenth session in February 2012, the Subcommittee established a working group on the issue of reprisals with a view to formulating a strategy to prevent and combat reprisals.

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

12. 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

13. The present report contains information gathered from 15 June 2011 to 15 June 2012. The cases reflected in the report have been collected in accordance with United Nations principles for human rights monitoring, notably the principle of do no harm. Information has been corroborated through multiple sources and assessed for its reliability and consistency. Whenever possible, information has been received directly from primary sources. In cases where the victims of reprisals, whether individuals or organizations, have been in contact with the United Nations and mechanisms in the field of human rights, the relevant follow-up action taken, including communications sent and responses received, is reflected in the present report.

14. 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. In certain instances, it was not possible to report on particular cases owing to security concerns or because the individuals exposed to reprisals had explicitly requested that their cases not be raised publicly. In some situations cases remain unreported owing to a lack of knowledge of the possibility of reporting cases of reprisals or lack of access to appropriate means of communication.

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

B. Summary of cases

Algeria

16. On 3 June 2011, the Committee against Torture adopted a decision on communication No. 341/2008, *Hanafi v. Algeria*. The complainant, an Algerian citizen, alleged that her husband had been tortured in detention, which had led to his death shortly after his release. The case specifically referred to measures of intimidation of the Algerian authorities against the complainant and her family.⁴

17. The Committee reaffirmed that a State party is required to cooperate with the Committee in good faith and is obliged to take all necessary measures to guarantee the right of every individual to have access to the individual communications procedure. Such access should in no circumstances be restricted or withdrawn and should be exercised freely. The Committee stressed that interference by the State party by pressuring witnesses to withdraw their testimonies in support of the complainant's communication constituted unacceptable interference with the procedure under article 22 of the Convention.⁵

Bahrain

18. According to information received, reprisals against human rights defenders took place in the context of the universal periodic review of Bahrain on 21 May 2012. Reportedly, a number of Bahraini newspapers, including *El Watan* and the *Gulf Daily News* published articles labelling human rights defenders in Geneva who had provided information for the consideration of Bahrain in the Working Group on the Universal Periodic Review as "traitors". Individuals who had been present at the universal periodic review session were described as the "disloyal bunch" whose mission it was to "tarnish Bahrain's reputation".

19. Human rights defenders attending the universal periodic review session expressed fears over their security and possible reprisals upon their return to Bahrain. On 25 May 2012, following the adoption of the report on Bahrain by the Working Group of the Universal Periodic Review, the President of the Human Rights Council expressed concern at the media campaign in Bahrain against human rights defenders who had participated in the review and called upon Bahraini authorities to ensure the safety of those persons upon their return.

20. Reportedly, the Ministry of Interior of Bahrain stated on 26 May 2012 that those returning from Geneva may be investigated for having slandered their country. One prominent lawyer and human rights defender was subjected to a smear campaign upon his return to Bahrain from the session of the Working Group. Another human rights defender was injured by riot police while peacefully demonstrating in Bahrain; allegedly he was targeted because of his previous attendance at the universal periodic review session.

21. An exchange of letters between the Permanent Representatives of Bahrain and of Jordan (in its capacity as Chair of the Arab Ambassadors Council) and the President of the Human Rights Council, in consultation with the Bureau, subsequently took place on this matter. A meeting was also held in this regard.

⁴ *Hanafi v. Algeria*, para. 9.8. See also *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 44 (A/66/44)*, para. 106.

⁵ *Hanafi v. Algeria*, para. 9.8.

Belarus

22. In November 2011, during its forty-seventh session, the Committee against Torture considered the fourth periodic report of Belarus (CAT/C/BLR/4). Andrei Bondarenko, Director of Platforma, an institution whose work is focused on the rights of persons in detention, was among the contributors to a joint NGO report submitted in connection with the Committee's consideration of the report of Belarus. Mr. Bondarenko also participated in a NGO briefing to the Committee and was present during the public consideration of the report by the Committee.

23. On 15 March 2012, Mr. Bondarenko reportedly learned that he was temporarily forbidden to leave Belarus when he was forced off a train between Minsk and Warsaw at the Brest-Centralnyj border control, on the first occasion he had attempted to leave Belarus since his visit to Geneva in November 2011. While the travel ban did not explicitly indicate that his advocacy work in Geneva was its direct cause, his work as a human rights defender, including his participation in the session of the Committee against Torture, was allegedly a decisive factor. Information received indicating that the case forms part of a pattern of travel bans issued in February 2012 against Belarusian human rights defenders is a matter of concern.

China

24. In November 2011 and May 2012, the NGO Chinese Human Rights Defenders conducted training sessions on international human rights law and related mechanisms for human rights defenders from China in Geneva, as it had done annually for the past seven years, to coincide with the sessions of the Human Rights Council and relevant treaty bodies. Participants in earlier trainings had engaged with special procedures and the universal periodic review mechanism. Information received alleges that each year, Chinese officials had intimidated participants and prevented several from attending the training. Prior to the May 2012 training, four persons were reportedly prevented from attending: one person's family was threatened, another's supervisor blocked participation and two persons were stopped at different airports on departure on the grounds that their departure would entail "national security risks". The passport of one was confiscated. Upon their return to China, various participants who attended the training sessions were questioned by security officers and the local bureau of justice. This practice is a matter of concern.

Colombia

25. While undertaking his military service with the 14th Battalion of the 14th Brigade based in Puerto Berrio, Antioquia, between 2004 and 2006, John Fredy Ortiz Jiménez reportedly witnessed several extrajudicial executions of civilians presented by the army as "*falsos positivos*". In 2008, Mr. Ortiz Jiménez publicly denounced the executions he had witnessed and the modus operandi of falsos positivos. Mr. Ortiz Jiménez met with the Special Rapporteur on extrajudicial, summary or arbitrary executions during his visit to Colombia in 2009. Mr. Ortiz Jiménez alleges that he has since been the victim of death threats, monitoring and two attempts of enforced disappearance, allegedly by members of the armed forces.

26. On 7 March 2012, it was reported that several persons beat Mr. Ortiz Jiménez and injured his arm, while trying to drag him into a vehicle in Barranquilla. On 10 May 2012, one day after he met with an OHCHR official, Mr. Ortiz Jiménez was threatened by two persons in a street in Baranquilla who demanded: "What were you doing with the UN woman yesterday?"

27. Reportedly, the protection programme of the Colombian Attorney General's Office provided some protection for Mr. Ortiz Jiménez. However, after the birth of his daughter,

he was obliged, despite continuing security concerns, to leave the protection programme as it refused to cover his family members. On 13 March 2012, OHCHR in Colombia requested the Attorney General to implement protection measures for Mr. Ortiz Jiménez, but on 30 April 2012, the Attorney General's Office communicated to him that the protection programme had decided to deny his incorporation into the programme.

Iran (Islamic Republic of)

28. As noted in my report to the General Assembly at its sixty-sixth session on the situation of human rights in the Islamic Republic of Iran, the intimidation, harassment and in some cases, detention and ban on the travel of women's rights activists, female journalists and lawyers remains a matter of serious concern (A/66/361, para. 22). According to information received, members of the Campaign for Equality, also known as the One Million Signatures campaign, have been specifically targeted. Maryam Bahrman, an Iranian women's rights activist and member of the One Million Signatures campaign, was reportedly arrested on 11 May 2011 at her house in Shiraz and charged with national security offences. Ms. Bahrman's arrest appears to be linked to her work as a women's rights activist and her participation in the fifty-fifth session of the Commission on the Status of Women in New York in March 2011. Faranak Farid, another One Million Signatures campaigner who participated in the Commission's session in 2010, was arrested in Tabriz on 3 September 2011. She was charged with having undertaken propaganda against the State, and during her trial in February 2012 the court cited her attendance at overseas conferences on women's rights. These incidents have raised serious concerns among Iranian women activists, who allegedly decided as a consequence not to attend the fifty-sixth session of the Commission on the Status of Women, held in New York from 27 February to 9 March 2012.

Kazakhstan

29. On 24 May 2012, the Committee against Torture adopted a decision on communication No. 433/2010, *Gerasimov v. Kazakhstan*. The complainant alleged that he had been subjected to torture by the police, who wanted him to confess to murder. The Committee determined that the State party had interfered with the complainant's right of petition and reaffirmed that a State party is required to abstain from any acts of intimidation or reprisal against complainants, their families and/or authorized representatives. Such acts may include, but are not limited to, any forms of direct or indirect threats, coercion, and other improper acts aimed at dissuading or discouraging complainants or potential complainants from submitting their complaints or pressuring them to withdraw or modify their claims, as any such interference would render the individuals' right of petition under article 22 meaningless.⁶

30. The Committee noted that the complainant had sent a notarized withdrawal letter with a copy to the Ministry of Foreign Affairs, with a translation from Russian into English, and that the complainant and his family were subjected to pressure at national level in connection with his communication. The Committee concluded that it had substantial reason to doubt that the withdrawal letter was prepared voluntarily and that the State party had interfered with the complainant's right of petition.⁷

⁶ *Gerasimov v. Kazakhstan*, paras. 12.9-12.10.

⁷ *Ibid.*, paras. 11.3 and 12.10.

Lebanon

31. On 22 July 2011, Saadeddine Shatila, a representative in Lebanon of the Geneva-based NGO Alkarama, was allegedly visited at his house by a military intelligence agent, who summoned him to questioning. On 25 July 2011, Mr. Shatila presented himself at the military intelligence headquarters at 8 a.m. and was not allowed to contact anyone for 12 hours. He was reportedly released at 8 p.m. the same day, after having been questioned for more than seven hours by military intelligence officials about his work and that of Alkarama, and about how information was collected on individual cases. Mr. Shatila was informed that he was being investigated for “publishing information which damages the reputation of the military” and for “spreading false news”. The following day, military police visited Mr. Shatila’s office and his house. When they did not find him, they allegedly called him on his mobile from his home phone to instruct him to go to the Military Court in Beirut, where he was questioned for hours by a Commissioner of the Government without the presence of a lawyer. On 10 August 2011, several special procedures sent an urgent appeal in relation to his case (A/HRC/19/44, p. 56).

32. On 28 October 2011, Mr. Shatila was again summoned for questioning in the Military Court. This took place on 31 October 2011 with the presence of a lawyer. Reportedly, Mr. Shatila was asked how he had documented cases and submitted them to Geneva and was told that he was harming the reputation of Lebanon and its military. It is reported that the harassment by military intelligence and the military justice system was intended to intimidate him from documenting cases of torture and arbitrary detention and from engaging with international human rights mechanisms. Information received indicates that the charges against Mr. Shatila were dropped in February 2012. At the time of completion of the present report, the Government had not replied to the urgent appeal sent on 10 August 2011.

Malawi

33. On 17 March 2012, John Kapito, Chairperson of the Malawi Human Rights Commission, was allegedly approached in Lilongwe by approximately 30 police officers who arrested him and searched his car. He was reportedly taken to a remote police station where he was interrogated without the presence of legal counsel, despite his request that his lawyer attend. The following day, his house was searched. He was allegedly asked by the police what materials he would be taking to Geneva on his forthcoming trip to present information to the International Criminal Court and what reports he would present to the Court. Mr. Kapito reportedly explained that he was not going to a meeting of the International Criminal Court but the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, which has the same acronym (ICC) and of which the Malawi Human Rights Commission is an accredited member.

34. Mr. Kapito was charged with possession of seditious material and foreign currency. He was, however, granted bail and was able to travel to Geneva to attend the International Coordinating Committee meeting. At the time of the completion of the present report, Mr. Kapito reportedly remains on bail on the charge of sedition. Several special procedures sent a communication on the case on 4 May 2012, expressing concern that the case was part of a broader campaign to silence human rights defenders in Malawi (see A/HRC/21/49). The Government has yet to respond to the communication.

Saudi Arabia

35. Mohammad Fahad Al-Qahtani is a lawyer and the co-founder and President of the Saudi Association for Civil and Political Rights, which campaigns against arbitrary detention. Mr. Al-Qahtani has reportedly been questioned by the Saudi authorities on

several occasions, with increasing intensity in 2012, regarding his work and international contacts, including with the United Nations. In March 2012, he was summoned to the Public Prosecutor's office in Riyadh for questioning. Mr. Al-Qahtani was reportedly issued a travel ban and informed that he was subject to a criminal investigation. At the time of the completion of the present report, the Government had not responded to the communication sent in relation to his case by several special procedures on 3 May 2012 (ibid.).

36. According to information received, Mr. Al-Qahtani was formally notified of 11 different charges laid against him when he was brought before the Riyadh Trial Court on 18 June 2012. Reportedly, the charges made specific reference to his work as a human rights defender and accused him of providing false facts and information to international mechanisms by way of statements and the dissemination of information about individual complaints against the Saudi Government which "contradict the truth and reality documented in official papers".

37. The next hearing relating to Mr. Al-Qahtani is scheduled for 1 September 2012. Concerns have been raised that the criminal charges against him are directly related to his work documenting cases of arbitrary detention in Saudi Arabia and constitute reprisals in response to his engagement with human rights mechanisms, including the Human Rights Council and its special procedures. Concerns about Mr. Al-Qahtani's situation were raised in public by civil society organizations on 29 June 2012 under agenda item 5 during the twentieth session of the Human Rights Council.

Sri Lanka

38. My previous reports have referred to the climate of fear human rights defenders face in Sri Lanka.⁸ The negotiation and adoption of resolution 19/2 on Sri Lanka at the nineteenth session of the Human Rights Council in March 2012 resulted in significant escalation of hostile and defamatory media reporting in Sri Lanka, which primarily focused on human rights defenders in Geneva.

39. Human rights defenders described an environment of intimidation and hostility at the nineteenth session of the Council. Human rights defenders Sunila Abeysekera (affiliated with INFORM Human Rights Documentation Centre, Global Campaign for Women's Human Rights) and Nimalka Fernando (President of the International Movement against All Forms of Discrimination and Racism) reported that they were approached in the Palais des Nations by a Sri Lankan embassy staff member who told them that "they should not be in Geneva" and that "they were letting their country down".

40. At a Human Rights Council side event which took place on 19 March 2012, Sandya Ekneligoda, a human rights defender and the wife of missing Sri Lankan political cartoonist Prageeth Ekneligoda, was reportedly harassed by members of the Sri Lankan delegation who attempted to prevent the continuation of the event. A day after returning to Colombo, Ms. Ekneligoda appeared in the Homagama Magistrate's Court in relation to her disappeared husband's habeas corpus case and her request for the former Attorney General to be summoned for questioning regarding a statement made by him to the Committee against Torture on 9 November 2011, indicating that the Government had information on the whereabouts of Mr. Ekneligoda. Ms. Ekneligoda was reportedly questioned by the Deputy Solicitor General regarding her participation in the March 2012 session of the Council. In response to the defence counsel's objection to the relevance of this, the Deputy

⁸ A/HRC/18/19, para. 69; A/HRC/14/19, paras. 40-43.

Solicitor General reportedly said: “I am entitled to ask any question to find out whether international organizations and NGOs are provoking something against the State.”

41. Between 14 and 17 March 2012, several articles appeared in the Sri Lankan press relating to human rights defenders, accusing them of working with the Liberation Tigers of the Tamil Eelam (LTTE) including: the *Daily Mirror*, *Lanka C News*, *Dinamina*, *Lakbima*, *Silumina* and the *Nation*. Some of these articles were reproduced on official Government web pages.⁹

42. A number of programmes depicting the Human Rights Council session were broadcast on national television in Sri Lanka during the same period, reportedly portraying the human rights defenders in a negative light.¹⁰

43. On 23 March 2012, the Sri Lankan Minister for Public Relations, Mervyn Silva, reportedly addressed a public demonstration in Kiribathgoda outside of Colombo on the Human Rights Council resolution, and named Dr. Saravanamuttu, Dr. Fernando, Ms. Abeysekera and Mr. Deshapriya as “traitors” and threatened to break the limbs of any exiled journalists who had gone abroad and made statements against the country, and dared them to set foot in Sri Lanka again. A video of the speech has been disseminated on the Internet through a social networking site. It was reported a few days later that the Minister of External Affairs, G.L. Peiris, had condemned the Minister involved for making public threats of violence and stated that such remarks could neither be condoned nor justified.

44. The High Commissioner for Human Rights specifically addressed these issues in a press briefing by her spokesperson on 23 March 2012 and warned that “there must be no reprisals against Sri Lankan human rights defenders in the aftermath of yesterday’s adoption by the Human Rights Council of a resolution on Sri Lanka”. She also observed that “during this Human Rights Council session, there has been an unprecedented and totally unacceptable level of threats, harassment and intimidation directed at Sri Lankan activists who had travelled to Geneva to engage in the debate, including by members of the 71-member official Sri Lankan Government delegation. ... In Sri Lanka itself, newspapers, news websites and TV and radio stations have since January been running a continuous campaign of vilification, including naming and in many cases picturing activists, describing them as an ‘NGO gang’ and repeatedly accusing them of treason, mercenary activities and association with terrorism. Some of these reports have contained barely veiled incitement and threats of retaliation.” The High Commissioner also noted that “some of the attacks on human rights defenders were carried in Sri Lankan state media and Government websites or were filed by journalists who had been officially accredited to the Human Rights Council session by the Sri Lankan Permanent Mission”. She called on the Government “to ensure the protection of human rights defenders, to publicly disassociate itself from such statements, and to clearly uphold the right of Sri Lankan citizens to freely engage in international debate of this kind”.¹¹

⁹ On 14 March 2012, an article in the *Daily Mirror* entitled “Pakiasothy, Sunila and Nimalka working with LTTE rump” accused Ms. Abeysekera, Mr. Saravanamuttu (Director of the Centre for Policy Alternatives) and Ms. Fernando of supporting the LTTE and betraying Sri Lanka. On 15 March 2012, the article was reproduced on the website of the Ministry of Defence (defence.lk) and on 17 March 2012, the news website of the Government (news.lk) posted a similar article.

¹⁰ On 15, 16 and 17 March 2012, the channel ITN reportedly broadcast visuals of Mr. Saravanamuttu, Ms. Fernando, Ms. Abeysekera and Sunanda Deshapriya (a journalist mentioned in my 2010 report), alleging that an “NGO gang” in Geneva had joined with the LTTE.

¹¹ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12008&LangID=E, www.un.org/apps/news/printnewsAr.asp?nid=41617.

45. The President of the Human Rights Council, on behalf of the Bureau, met with the Permanent Representative of Sri Lanka in Geneva on 6 March 2012 in order to share information on defamatory media articles and express serious concern at reported incidents and intimidation measures by the Sri Lankan delegation in Geneva targeting Sri Lankan human rights defenders attending the nineteenth Council session. The Permanent Representative committed to investigate all allegations.

46. It is noted that Sri Lanka, in comments made on 23 March 2012 to the Human Rights Council, at its nineteenth session, asked for clarification on allegations that there had been threats to and intimidation of human rights defenders by members of its delegation, indicating that it treated such allegations with the utmost seriousness and did not condone such violations. In its comments, Sri Lanka denied allegations of intimidation or harassment of human rights activities in its reply under agenda item 4 of the twentieth session of the Council. In that statement, Sri Lanka also noted that “any individual expression of opinion as to the conduct of civil society activists in the local media and elsewhere cannot be interpreted as intimidation and the Government cannot be expected to assume responsibility for the free expression of opinion of third parties”.

Sudan

47. On 19 June 2011, 16 civilians were arrested outside of the United Nations Mission in the Sudan (UNMIS) headquarters in Khartoum while attempting to deliver a petition on the violence in Southern Kordofan to the UNMIS Special Representative of the Secretary-General and to the Deputy High Commissioner for Human Rights, who was due to arrive in Khartoum on an official visit to Sudan the following day. The activists were reportedly arrested by plain-clothed national security service personnel at the entrance to the UNMIS compound and driven to Khartoum East Police Station, where they were detained for approximately six hours before being released on bail following intervention by lawyers. One of the victims reported that some of the men arrested had been beaten up at the time of their arrest. All of the arrested activists were charged with the disturbance of public peace and public nuisance under articles 69 and 77 of the Criminal Act of 1991.¹²

48. On 26 June 2011, Bushra Gamar Hussein was reportedly arrested at the home of a relative in the Al-Thawra district of Omdurman in Khartoum by the National Intelligence and Security Service for allegedly “working with international organizations hostile to Sudan,” a crime under articles 50, 51, 53, 63, 64, 65 and 66 of the Sudanese Penal Code. Mr. Hussein is from Southern Kordofan and a member of the Nuba ethnic group. He is the founder and chair of the Human Rights and Development Organisation, a non-governmental human rights organization which also provides humanitarian assistance to people of Nuba ethnic origin in Southern Kordofan. Mr. Hussein had travelled to Khartoum on an official mission calling for humanitarian assistance for displaced people in Southern Kordofan.

49. Reportedly, on 13 July 2011, the Attorney General ordered that Mr. Hussein be transferred to Kobar General Prison in Khartoum. It is alleged that the investigating authorities failed to establish evidence to substantiate the allegations against Mr. Hussein and that on 14 August, a judge ordered his release. Notwithstanding the judicial order in favour of Mr. Hussein, national security service agents allegedly re-arrested him when he left the courthouse.

¹² “Thirteenth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan: preliminary report on violations of international human rights and humanitarian law in Southern Kordofan from 5 to 30 June 2011”, August 2011, para. 42.

50. While in the custody of the National Intelligence and Security Service, Mr. Hussein was placed in incommunicado detention where he was reportedly beaten until he went into a coma. He reportedly received death threats, was called a “slave” due to his Nuba ethnic origin and was forced to stand for long hours during interrogation by NISS officers. While in detention, his health reportedly deteriorated and on 22 May 2012, Mr. Hussein was taken to the General Police Hospital in Khartoum. On 19 June 2012, he declared a hunger strike in protest against his arbitrary detention. On 27 June 2012, Mr. Hussein was reportedly released on bail.

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

Bahrain

51. My previous report refers to the arrest and prosecution of several Bahraini human rights defenders: Abdulhadi Al-Khawaja, Abduljalil Al-Singace, Hassan Mushaima, Abdul Ghani Al-Kanja and Nabeel Rajab (A/HRC/18/19, paras. 15-24).

52. Mr. Rajab was allegedly attacked on 21 May 2011 at his home by members of the security forces and subjected to a travel ban. Another attack against Mr. Rajab by police allegedly took place in the context of a demonstration in Manama on 6 January 2012. Several special procedures sent urgent appeals in relation to his case on 16 June 2011 and 9 September 2011 (A/HRC/19/44, pp. 17 and 75), as well as on 20 January 2012.

53. According to information received, the National Safety Court (a military court) sentenced Mr. Al-Khawaja, Mr. Al-Singace, Mr. Mushaima and Mr. Ghani Al-Kanja to life imprisonment on 22 June 2011. The Government reportedly considered that these human rights defenders formed part of a “terrorist cell”. The same defenders were referred to in several urgent appeals sent by special procedures, notably a communication of 5 August 2011 expressing concern in relation to their prosecution.¹³

54. On 13 April 2012, four special rapporteurs issued a press release urging the Government to immediately release Abdulhadi Al-Khawaja, who was serving a life sentence as a result of a decision of a military court on terrorism-related charges brought against him. Allegedly, he had been held in incommunicado detention before being allowed to seek legal counsel and forced to make confessions under duress, which were later used as evidence in his trial. Mr. Al-Khawaja reportedly had been on hunger strike since 8 February 2012 and despite assurances of his well-being by Bahraini authorities, reports and photos documenting his poor state of health continued to emerge. The special rapporteurs noted that the case was “sadly emblematic of the overall treatment of human rights defenders in Bahrain”.¹⁴ Special procedures sent several urgent appeals in relation to this case, most recently on 12 March 2012 (A/HRC/20/30, p. 68).

Belarus

55. The Belarusian Helsinki Committee, referred to in my previous report (A/HRC/18/19, paras. 28-30), allegedly is still subjected to restrictions which hamper its work in the defence of human rights. According to information received, a member of the Belarusian Helsinki Committee was reportedly informed in March 2012 that a travel ban had been issued against him. Several special procedures sent a communication regarding

¹³ A/HRC/19/44 p. 52; see also A/HRC/18/51, p. 72.

¹⁴ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12056&LangID=E.

the case on 21 May 2012 (see A/HRC/21/49). At the time of the completion of the present report, no response had been received from the Government.

Kenya

56. The killings of Oscar Kamau Kingara and John Paul Oulu on 5 March 2009, following their meeting with the Special Rapporteur on extrajudicial, summary or arbitrary executions during his country visit to Kenya in January 2009 (A/HRC/11/2/Add.6), have been referred to in my previous reports.¹⁵ The Deputy High Commissioner made specific reference to these cases in the Human Rights Council on 29 March 2009 and the Kenyan delegation took the floor to state its commitment to investigate the killings. It is a matter of particular regret that at the time of completion of the present report in July 2012, information has been received from various sources indicating that there has been no progress on an investigation. At the time of completion of the report, the Government had not responded to the communication sent by several special procedures on 13 March 2009 (A/HRC/11/2/Add.1, pp. 252-255).

57. In relation to the detention of Keneth Kirimi Mbae, which was mentioned in my 2011 report (A/HRC/18/19, para. 48), information received indicates that following his arrest on 22 April 2010 by plain-clothed police officers, Mr. Kirimi was held incommunicado in Thika, before being blindfolded, sedated and taken to an isolated house in Suswa in the Narok district in Kenya. He was reportedly subjected to ill-treatment while in detention, including intimidation by gunshots, beatings and threats by police officers that they would sleep with his wife.

58. Mr. Kirimi was found on 25 April 2010 dumped at Suswa Market in serious pain and with blood stains on his clothes. The arbitrary arrest, secret detention, torture and ill-treatment of Mr. Kirimi was reportedly directly linked to his work in the defence of human rights. Mr. Kirimi met with the Police Commissioner Mathew Iteere on 6 May 2010. The Commissioner promised to investigate the case, but at the time of completion of the present report no information was available regarding developments in the investigation. The Government has to date not responded to the communication sent by several special procedures on 30 April 2010 (A/HRC/17/28/Add.1, pp. 232-235).

Malawi

59. The threats against Benedicto Kondowe, Executive Director of the Civil Society Coalition on Quality Basic Education, referred to in my 2011 report (A/HRC/18/19, paras. 49-56), have allegedly continued. According to information received, Mr. Kondowe had received another anonymous phone call asking why he was exposing the shortfalls of the Government. Several special procedures sent a follow-up communication regarding the case on 5 August 2011 (A/HRC/19/44, p. 54). The Government submitted a written acknowledgment of the communication on 9 August 2011. However, at the time of the completion of the present report, the Government has not provided any information in relation to the case.

Rwanda

60. Regarding the case of Pascal Nyilibakwe, Executive Secretary of the Rwandan section of the Human Rights League of the Great Lakes, referred to in my 2011 report (A/HRC/18/19, paras. 57-60), information has been received indicating that he remains outside Rwanda.

¹⁵ A/HRC/18/19, paras. 78-81; A/HRC/14/19, paras. 29-36.

61. The Human Rights League of the Great Lakes reportedly continues to face administrative difficulties in Rwanda which stem from harassment in 2010 and 2011, including delayed renewal of the organization's NGO registration, which expired in April 2011. The process remains ongoing. As part of the registration process, the Human Rights League of the Great Lakes requested a memorandum of understanding with the Ministry of Justice in August 2011 on the expiration of its previous memorandum of understanding. At the time of completion of the present report, the memorandum had not been signed. The delay has reportedly hindered the organization's ability to carry out activities as planned and limited its access to funds; because the organization operates in the Democratic Republic of the Congo, Burundi and Rwanda, it is categorized as an international NGO and, as such, it is not allowed to conduct activities in Rwanda without registration.

62. The registration process for the period 2012-2013 started in July 2012 as stipulated by the regulations for international NGOs operating in Rwanda. The Human Rights League of the Great Lakes started its registration renewal process, despite the unresolved current registration situation for 2011-2012. However, the mandate of its executive committee expired in December 2011. Without valid registration it is difficult for the Human Rights League of the Great Lakes to organize its General Assembly to elect a new executive committee. At the same time, the fact that the committee is not in place is reportedly being used as a reason for delaying the renewal of the organization's registration.

Saudi Arabia

63. Regarding the case of Fadhel Al-Manasif, whose case was mentioned in my previous report (A/HRC/18/19, paras. 62-68), information was received indicating his release on 11 August 2011, after three months of arbitrary detention in solitary confinement and no family visits. He was allegedly re-arrested during the afternoon of Sunday, 2 October 2011 at a checkpoint between Al-Awamiyah and Safavi in eastern Saudi Arabia. Mr. Al-Manasif is reportedly currently held in the General Investigations Prison in the city of Dammam, in the Eastern Province in Saudi Arabia. According to information received, he is on trial in Riyadh before the Special Criminal Court, established to address security offences, and is accused of sedition for participating in protests. Allegedly, he is facing charges relating to his arrests of April 2009 and May 2011. A second and third hearing in the case took place at the Special Criminal Court on 28 February 2012 and 9 April 2012, respectively. He denies the accusations against him. Following the fourth hearing, which was held on 9 May 2012, subsequent hearings were postponed.

64. As in the case of Mr. Al-Manasif's detention from May to August 2011, he is reportedly being held in solitary confinement and has not been allowed family visits. Concerns have been expressed that he may have been subjected to torture and that he is being prosecuted on grounds relating to his engagement with international human rights mechanisms. At the time of the completion of the present report, the Government had not responded to the communication sent by several special procedures on 12 May 2011 (A/HRC/18/51, p. 110).

Sudan

65. The case of Abdelrahman Al-Gasim was included in my report of 2011 and related to reprisals following his participation in the fifteenth session of the Human Rights Council in September 2010 (A/HRC/18/19, paras. 70-73). According to information received, Mr. Al-Gasim was arrested in late October 2010 and spent one month incommunicado. He was reportedly held at the premises of the National Intelligence and Security Services from 3 November 2010 to 24 December 2010 and then transferred to Kober prison, where he was held for 50 days before being released on 21 January 2011. He was subsequently banned from leaving the country.

66. In June 2011, Mr. Al-Gasim and six other human rights defenders were charged with, inter alia, conspiracy against the State and espionage, crimes which are punishable by death or life imprisonment. One of the accusations levelled against Mr. Al-Gasim was of reporting to the International Criminal Court. On 4 December 2011, the charges against Mr. Al-Gasim and three other defendants were dismissed. Nonetheless, Mr. Al-Gasim has reportedly continued to face harassment, his legal office has been kept under surveillance by the security services and he has lost clients and income. At the time of the completion of the present report, the Government had not responded to the communication sent by several special procedures on 23 November 2010 (A/HRC/16/44/Add.1, paras. 2131-2133).

Uzbekistan

67. The case of Erklin Musaev was mentioned in my previous reports.¹⁶ Information received indicates that in March 2011 he was transferred to Navoyi prison, where the conditions of detention reportedly are severe and have had a detrimental effect on his health. On 21 March 2011 and on 3 May 2012, the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent urgent appeals to the Government of Uzbekistan, expressing concerns at allegations that Mr. Musaev had been regularly placed in solitary confinement, ill-treated and beaten. On 12 May 2011, the Government responded to the communication of 21 March 2011 indicating that Mr. Musaev was receiving medical treatment and that no complaints or reports had been received from him or his family concerning unlawful acts by the staff of the law enforcement agencies. It has been reported that Mr. Musev's family continues to be intimidated in order to silence them and to stop them from contacting international organizations.

Venezuela (Bolivarian Republic of)

68. In relation to the case of Judge María Lourdes Afiuni, mentioned in my two most recent reports on reprisals,¹⁷ information was received indicating that she remains in detention. Judge Afiuni was arrested on 10 December 2009 after she ordered the conditional release of an individual whose detention the Working Group on Arbitrary Detention considered arbitrary. President Hugo Chavez reportedly publicly demanded that she be sentenced to 30 years of imprisonment. In September 2010, the Working Group on Arbitrary Detention, in its opinion 20/2010, concluded that the detention of Judge Afiuni was arbitrary (A/HRC/16/44/Add.1, paras. 2417-2434).

69. On 13 December 2011, a judge granted the request of the Public Prosecutor to extend the penalty of house arrest against Judge Afiuni by two more years. Judge Afiuni has already spent two years in detention. Several special procedures expressed their deep concern at the decision in a press release on 27 December 2011.¹⁸ Reportedly, the lawyer who has acted for Judge Afiuni since 2009 was arrested and detained for eight days on 4 June 2012.

III. Conclusions and recommendations

70. As illustrated by the cases contained in the present report, intimidation and reprisals against those cooperating with the United Nations, its mechanisms and

¹⁶ A/HRC/18/19, para. 86; A/HRC/14/19, para. 44.

¹⁷ A/HRC/18/19, paras. 87-90; A/HRC/14/19, paras. 45-47.

¹⁸ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11745&LangID=E.

representatives in the field of human rights continue to be reported. Such acts continue to be carried out in various forms: threats and harassment by Government officials, including through public statements of high-level officials, media smear campaigns, physical attacks, arbitrary detention, torture and ill-treatment and travel bans. The present report contains information on reported cases of reprisals for cooperating with OHCHR, the Human Rights Council and its special procedures and universal periodic review mechanism, treaty bodies and United Nations peace missions.

71. As I noted in the high-level panel discussion on reprisals in 2011, the United Nations could not do its invaluable work for human rights without those who cooperate with us. When they are intimidated and targeted for reprisals, they are victims, but we are all less secure. When their cooperation is stifled, our work in the field of human rights is compromised.

72. The State has the primary responsibility of ensuring that persons who cooperate with the United Nations and its mechanisms in the field of human rights are protected. I deeply regret the lack of accountability in relation to the majority of reported cases of reprisals. States need to ensure that all alleged acts of reprisals and intimidation are promptly and impartially investigated, perpetrators brought to justice and victims provided with appropriate remedies. Strengthened judicial efforts need to be combined with concrete and immediate measures for victims. In particular, public officials who make public statements which place human rights defenders at risk should be held accountable. I encourage the establishment of national witness programmes to provide effective protection measures for victims who have reported incidents of reprisals. In this regard, I encourage States to request technical advice from OHCHR regarding witness protection programmes.

73. The Human Rights Council should devote sufficient time and attention to the present report. It should underscore the obligation of States concerned to investigate any alleged acts of intimidation and reprisal and ensure that they report back to the Human Rights Council on their action in this context. I support the stance taken by the President of the Human Rights Council in condemning acts of intimidation and harassment and urge the Bureau and members of the Council to continue to address allegations of reprisals in a robust and consistent manner. The universal periodic review mechanism can provide a useful avenue in this regard.

74. It is the responsibility of States to protect civil society. Where the State is not able to perform this role, it is essential that the international community devises strong protection measures and supports them. There should be organizational coherence and a systematic approach by the United Nations to protect civil society actors and organizations better. In the framework of ensuring mainstreaming of human rights protection across the United Nations system, I encourage all United Nations entities to undertake a review of the existence of initiatives, practices and institutional policies to protect civil society space for action and mechanisms for inter-institutional cooperation to address reprisals.

75. The present report indicates that several United Nations human rights mechanisms have developed tailored responses to reprisals, including public statements. These could be further developed in order to create a coherent and unified response to combat reprisals.

76. Civil society plays a crucial role in advancing human rights. I urge civil society organizations to continue to raise awareness of reprisals issues and monitor the measures taken by States to ensure accountability for such action. I encourage the continued submission of information on cases, including follow-up to previous cases so

that these can be included in my next report, always bearing in mind the importance of ensuring the consent of the victim prior to any action in order to consider security aspects and the do no harm principle.
