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for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Human rights bodies and mechanisms

Summary of the Human Rights Council panel discussion on the issue of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights

Summary

The present summary was prepared in accordance with Human Rights Council decision 18/118, in which the Council decided to convene, at its twenty-first session, a panel discussion under agenda item 5 on the issue of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights. The panel discussion, organized by the Office of the United Nations High Commissioner for Human Rights, was held on 13 September 2012.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–3	3
II. Statements by the Secretary-General, the United Nations High Commissioner for Human Rights and the President of the Human Rights Council, and contributions of panellists	4–33	3
A. Secretary-General.....	4–6	3
B. United Nations High Commissioner for Human Rights	7–10	4
C. President of the Human Rights Council.....	11–12	4
D. Chair of the Board of the International Service for Human Rights	13–17	5
E. Deputy State Secretary for Global Affairs of the Ministry of Foreign Affairs of Hungary	18–20	6
F. Chairperson of the Coordination Committee of Special Procedures	21–25	6
G. Chairperson of the Committee against Torture.....	26–29	7
H. Executive Director of the East and Horn of Africa Human Rights Defenders Project.....	30–33	8
III. Summary of the discussion	34–79	9
A. Issues raised by stakeholders	36–72	10
B. Responses of panellists and concluding remarks by the moderator	73–79	14

I. Introduction

1. On 13 September 2012, at its twenty-first session, the Human Rights Council, pursuant to Council decision 18/118, held a panel discussion on the issue of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights. In decision 18/118, the Council also requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to liaise with relevant special procedures, States and other stakeholders, including relevant United Nations bodies and agencies, with a view to ensuring their participation in the panel discussion. The Office was also requested to prepare the present summary.

2. The panel discussion provided a multi-stakeholder perspective on the issue of reprisals and intimidation, illustrating how various bodies and mechanisms witnessed reprisals and responses to such acts. Through an exchange of views and experience, the panel aimed to (a) draw the attention of the international community to the issue of alleged reprisals and intimidation against persons who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights; (b) share experiences and perspectives on ways to address this disturbing practice and assess responses to it; (c) contribute to the development of a consolidated and coherent approach by the Human Rights Council and the United Nations in general by discussing concrete steps that States, the United Nations, the Council and its mechanisms could take to strengthen the response to reprisals, in both preventing reprisals and responding appropriately to cases that have already occurred.

3. The meeting was chaired by the Vice-President of the Human Rights Council, Ambassador Andras Dekany, the Permanent Representative of Hungary. The panel discussion was moderated by the Chair of the Board of the International Service for Human Rights, Mehr Khan Williams, and opened by the Secretary-General, and the United Nations High Commissioner for Human Rights. The panellists were Deputy State Secretary for Global Affairs at the Ministry of Foreign Affairs of Hungary, Szabolcs Takács; the Chairperson of the Coordination Committee of Special Procedures, Michel Forst; the Chairperson of the Committee against Torture, Claudio Grossman; and Hassan Shire Sheikh Ahmed, Executive Director of the East and Horn of Africa Human Rights Defenders Project.

II. Statements by the Secretary-General, the United Nations High Commissioner for Human Rights and the President of the Human Rights Council, and contributions of panellists

A. Secretary-General

4. The Secretary-General, in his opening remarks delivered via video message, defined reprisals as one of the challenges faced by the Human Rights Council and the United Nations as a whole. He reminded the Council that the Secretaries-General of the Organization had reported regularly on alleged reprisals against those who cooperate with the United Nations in the field of human rights. He highlighted various forms of reprisals, underlining that they were only the “tip of the iceberg” given that, understandably, far too many people are scared to report reprisals aimed at silencing them.

5. The Secretary-General stressed the fact that States had a responsibility to respect human rights and protect those who advocate for fundamental rights; when they failed to do so, the United Nations had to stand up and speak out.

6. Recalling the action that he called for in his report, the Secretary-General welcomed the initiatives taken by various bodies and mechanisms to respond to reprisals, and praised the active role played by the President of the Human Rights Council in this regard. He expressed the hope that the panel would act as a catalyst for robust and coordinated action throughout the United Nations system to systematically condemn and respond to persecution and intimidation.

B. United Nations High Commissioner for Human Rights

7. The High Commissioner stressed the fact that reprisals should not take place, as the United Nations could not work without the cooperation of the people it was supposed to serve. As demonstrated by the leadership of the Secretary-General, the whole of the United Nations takes reported incidents of reprisals very seriously.

8. The High Commissioner emphasized that the cooperation of individuals and groups with the United Nations in the field of human rights in a free and safe manner was key to ensuring an efficient and results-oriented approach to the promotion and protection of human rights. Several key documents called for and praised this cooperation; for example, the 2005 World Summit Outcome¹ reaffirmed the importance of civil society in the work of the United Nations. She illustrated how cooperation with civil society was crucial for human rights bodies and mechanisms – OHCHR, the Human Rights Council, the special procedures, the universal periodic review, the commissions of inquiry, the treaty bodies – and in accordance with their respective mandates.

9. Despite the unequivocal recognition of the need and also the right of civil society to participate, reprisals and intimidations continue to be reported. The High Commissioner noted that reprisals could take many forms; people could be threatened or harassed by Government officials, including through public statements by high-level authorities. Associations and non-governmental organizations might see their activities monitored or restricted. Smear campaigns against those who cooperated with the United Nations might be organized. Threats could be made via phone calls, text messages or even direct contacts. People could also be arrested, beaten or tortured, or even killed.

10. Referring to the report of the Secretary-General in which he deeply regretted the lack of accountability for the majority of reported cases of reprisals,² the High Commissioner regretted that responses by States had been far from sufficient. She added that the Human Rights Council should do more, and highlighted the need for more coherent and solid strategies to put an end to reprisals. Such strategies should draw on all available sources and actors. She concluded that reprisals were not only unacceptable; they were also ineffective, because, ultimately, freedom would always prevail and information would always find its way to the outside world.

C. President of the Human Rights Council

11. The Vice-President of the Human Rights Council, Ambassador Andras Dekany, who chaired the meeting, delivered a message on behalf of the President of the Council. In her

¹ General Assembly resolution 60/1.

² A/HRC/21/18, para. 72.

capacity as President, her task was to ensure that the Council proceeds with the appropriate level of dignity and respect in its work to promote and protect human right. This implied that Members of the Council and all observers, including non-governmental organizations, had to be able to contribute freely to the Council's work. Unfortunately, incidents of harassment of civil society representatives had been brought to the attention of the President and to which she had to react, including through public statements, meetings and exchange of letters with the delegations concerned. Such actions were consistent with the outcome of the review of the Council³ and necessary to preserve its credibility.

12. The President emphasized that the fact that the Human Rights Council as a whole tackled this issue now more concretely through the present panel and reacted to unacceptable acts of reprisals or intimidation was an achievement in itself. The Council should remain a place where all voices, even dissenting ones, may be heard, and it had the responsibility to ensure that all individuals participating in its meetings and cooperating with it remained secure. The President recalled that the Council had called upon all States to desist from intimidation or reprisals directed at individuals or organizations participating in Council sessions, and expressed the hope that dialogue would constitute the preferred tool to address problems when divergent views arose.

D. Chair of the Board of the International Service for Human Rights

13. The Chairperson of the Board of the International Service for Human Rights, Mehr Khan Williams, moderated the panel. In her introductory remarks, she thanked the Human Rights Council for convening such an important discussion. She also thanked Member States who had played a key role in pushing for action against reprisals. She emphasized the fact that increasing cross-regional awareness and concern about reprisals was very encouraging, and that civil society organizations were particularly grateful for the personal attention paid to the issue by the Secretary-General and the High Commissioner.

14. Ms. Williams identified three issues at stake. First and foremost, the safety of those that cooperate, or seek to cooperate, with the United Nations human rights system had to be confident that the United Nations and concerned States would do all they could to afford swift protection to them when they engaged with the United Nations. Second, Member States had the greatest responsibility to ensure the protection of human rights defenders; States who committed or tolerated such acts showed contempt for the work of the Organization, and could be in breach of their obligations under the Charter of the United Nations. Third, the United Nations had a special ethical responsibility to ensure adequate protection to those who engaged with its representatives; when people were afraid to speak up because of fear of reprisal, the work of the United Nations was undermined.

15. Ms. Williams underlined the encouraging efforts made by the Human Rights Council to address reprisals, in particular the preventive measures taken by the President by drawing States' attention to situations that might constitute a threat to individuals cooperating with the Council and its mechanisms. The proactive role of the President should be standard protection practice for future Presidents.

16. Nonetheless, Ms. Williams regretted the fact that some States continued to use reprisals to silence the voice of non-governmental organizations, another form of which being to exclude them from cooperating with the United Nations because the NGO Committee of the Economic and Social Council delayed or applied criteria selectively for assessing and renewing applications submitted by non-governmental organizations.

³ A/HRC/RES/16/21, para.30

According to the Secretary-General, criteria for consultative status must be applied in a “transparent and fair manner”.

17. The moderator expressed the hope that the panel would identify the distinct yet complementary roles of different actors in the system – the United Nations, States, the Human Rights Council and its President, the special procedures, the treaty bodies, national human rights institutions and civil society itself – and formulate clear expectations in relation to each of them.

E. Deputy State Secretary for Global Affairs of the Ministry of Foreign Affairs of Hungary

18. The Deputy State Secretary for Global Affairs of the Ministry of Foreign Affairs of Hungary, Szabolcs Takács, observed that the present discussion was timely, since the number of cases of reprisal or intimidation against individuals and groups cooperating with the United Nations seemed to be on the rise. Hungary had always taken a strong stand against threats and reprisals against those who cooperated with the United Nations. In the past 22 years, Hungary had sponsored or initiated resolutions and decisions adopted by the Human Rights Council⁴, and previously by the Commission of Human Rights, on this issue. He highlighted in particular Council decision 18/118, in which it strongly rejected any act of intimidation and reprisal in line with the outcome of the review of the Council. The main thrust of the decision was to provide the Council with an opportunity under agenda item 5 to address a sensitive yet crucially important issue, decided to convene the present panel discussion.

19. Mr. Takács welcomed the firm engagement of the Secretary-General, the High Commissioner and the President of the Human Rights Council, and added that the credibility and everyday functioning of the entire United Nations system was at stake. In that context, he referred to cases of intimidation and reprisal for cooperating with the Secretary-General, the Security Council, United Nations peacekeeping missions, OHCHR, the United Nations Voluntary Fund for Indigenous Populations, the Human Rights Council, the Commission on the Status of Women, the special procedures, the treaty bodies and the universal periodic review mechanism, as contained in the most recent report of the Secretary-General⁵.

20. Mr. Takács stressed that it was now up to Member States to address the above-mentioned phenomenon by addressing impunity and ensuring accountability. In conclusion, Mr. Takács expressed the hope that the panel discussion would highlight the importance of the issue at hand and provide innovative and future-oriented solutions with the aim of stopping and preventing acts of intimidation or reprisal as a consequence of cooperation with the United Nations in the field of human rights.

F. Chairperson of the Coordination Committee of Special Procedures

21. The Chairperson of the Coordination Committee of Special Procedures, Michel Forst, underscored the fact that acts of intimidation and reprisal were constant subjects of concern and discussion for the special procedures. It had been discussed in depth at the most recent annual meeting of special procedures, including during meetings with the President of the Human Rights Council, States, non-governmental organizations and

⁴ See in particular resolution A/HRC/RES/12/2.

⁵ A/HRC/21/18.

national human rights institutions. In that context, he recalled the deep emotion and indignation among mandate holders when certain cases were discussed. These cases were known and had been reported on in the reports of special procedures mandate holders, the report of the Secretary-General and communications from non-governmental organizations. Special procedures mandate holders noted that it was primarily the responsibility of States to respond to allegations of threats and to take steps to protect witnesses. On too many cases, the impression was that the States concerned did not take any real action. The decisive role of national human rights institutions, including in the physical protection of witnesses, was recalled. With the President of the Council, the idea of having an annual dedicated session of the Council on the issue of reprisals was discussed. Mr. Forst expressed the hope that such an idea would be supported during the panel discussion.

22. Mr. Forst shared some of the existing measures developed by special procedures, individually and jointly, to address reprisals. Some of them had devoted an annual report to this issue. Others had decided to systematically include information on reprisals in their reports. Others still collected information and reacted appropriately to individual cases. Mr. Forst also informed participants that, in the light of the greater number and severity of cases documented, special procedures were currently considering various measures; for example, the manual of operations of the special procedures could be revised to include a specific chapter on the question of reprisals as well as practical recommendations addressed to all mandate holders. The training of new mandate holders on this matter should also continue.

23. With regard to recommendations, Mr. Forst shared some personal ideas for further discussion. In his views, any reprisal against a witness cooperating with a mandate holder should be treated as an attempt to undermine the mandate holder himself or herself, and consequently called for a rapid and systematic response from States Members of the Human Rights Council. Furthermore, the Chairperson of the Coordination Committee should be able to intervene immediately and publicly in cases of intimidation or reprisal brought to his or her attention by a mandate holder. Benefits could be gained from sharing the experience of other institutions that have developed expertise or programmes to protect witnesses, in particular the International Criminal Court.

24. Given that reprisals were often reported during country visits, Mr. Forst presented several ideas to be considered in that context, such as treating information relating to the agenda of the visit and the list of civil society contacts with the appropriate confidentiality in order to minimize the risk of reprisal, or sharing meeting plans with local human rights experts to assess beforehand the risk of witnesses being targeted. When facing allegations of reprisal, States concerned should be reminded of their obligations with regard to protection. The information could also be shared with the United Nations field presence, national human rights institution and diplomatic missions as appropriate; when possible, regional intergovernmental organizations could also be involved.

25. Mr. Forst also called for more systematic follow-up on cases raised in the communications and reports of special procedures, including through contact with the relevant missions. He concluded by proposing that a cross-regional group of States could decide to work together and act in the face of reprisals. They could take joint initiatives for witness protection by means of, inter alia, concrete asylum measures, temporary shelter or shelter in diplomatic missions.

G. Chairperson of the Committee against Torture

26. The Chairperson of the Committee against Torture, Claudio Grossman, stated that the legitimate ambition that all had was not only to refrain from being silent with regard to reprisals, but to be far more ambitious and far-reaching in our aims, and create a positive environment to ensure that human rights policies were developed. The first step was to

combat reprisals, but the overall aim was to ensure that anybody who wished to participate and to express ideas for a better world based on human rights would be free to do so. In this context, Mr. Grossman recalled that human rights involved actively promoting participation.

27. With regard to reprisals in the experience of the Committee against Torture and other treaty bodies, the forms observed included death threats, kidnapping, abduction, inhuman and degrading treatment and arbitrary detention. All of these manifestations attacked the idea of the inviolability of individuals. Mr. Grossman also mentioned what he described as more sophisticated methods used against those who tried to cooperate with the United Nations, such as criminal investigation inquiries, harassment, defamation, slander and the misuse of national laws with the aim of preventing human rights defenders from making their contribution to society. He also made reference to legislation that limits the possibility of registering as an organization with the purpose of achieving human rights objectives, or the decision to arbitrarily remove authorization for such registration. Restrictions also related to the transfer of funds. As stated in the Committee's most recent annual report, this was very much part and parcel of the culture of impunity, as there was often no accountability. Mr. Grossman also highlighted the gender dimension of the issue, and referred to situations where communities did not accept the active involvement of women in promoting human rights. He also raised the particular situation of attacks against journalists as a way to undermine freedom of expression and to intimidate people who wish to uphold human rights.

28. Mr. Grossman explained some of the techniques used by treaty bodies to address reprisals. These included country reports, concluding observations containing specific recommendations, confidential visits, individual communications, general comments and follow-up activities. The prevention of and responses to reprisals were also discussed in the context of the treaty body strengthening process.

29. With regard to recommendations, Mr. Grossman encouraged States to establish focal points at the national level to deal with reprisal-related issues. He added that it was important to ensure the clear criminalization of exacerbating circumstances when human rights defenders were the subject of criminal activity. Criticizing public authorities should also be decriminalized. Mr. Grossman also suggested that a study be carried out on good practices in addressing reprisals (such as legislation, registration, training or cooperation with civil society). This could take the form of a clearing house mechanism to receive and distribute information on good practices. Mr. Grossman concluded by emphasizing that it was important not only to prevent reprisals, but also to create an environment in which everybody was able to enjoy and uphold human rights.

H. Executive Director of the East and Horn of Africa Human Rights Defenders Project

30. The Executive Director of the East and Horn of Africa Human Rights Defenders Project, Hassan Shire Sheikh Ahmed, welcomed the convening of the panel, which was particularly timely. Since its establishment in 2005, the Human Rights Defenders Project had assisted hundreds of human rights defenders at risk, some of whom had faced intimidation or reprisals as a direct result of their cooperation with the United Nations. Reprisals had long-standing consequences for the individuals affected, most tragically in the case of assassinations; others had been forced to flee their countries for their own safety. As the secretariat to a network of human rights organizations, the Human Rights Defenders Project facilitated the attendance and participation of human rights defenders in the work of the Human Rights Council.

31. Mr. Shire Sheikh Ahmed emphasized that primary responsibility for responding to acts of intimidations and reprisals lay with the State, which should conduct investigations, persecute perpetrators and offer remedies to victims. However, this obligation had rarely been fulfilled. Therefore practical responses to assist victims had been developed within civil society, drawing largely on the work of existing organizations and networks that supported human rights defenders who faced threats as a result of their work, such as temporary evacuation and relocation, trial observation, legal assistance, practical security measures as well as public and private advocacy to raise awareness of violations or to seek solutions through private dialogue. These were equally relevant in cases of reprisal specifically related to cooperation with the United Nations. These responses were, however, limited when States were unwilling or unable to intervene positively. In this context he pointed out the contribution of networks in responding to and preventing reprisals.

32. With regard to recommendations, Mr. Shire Sheikh Ahmed highlighted two main areas for concrete action; in sustained follow-up on cases, and in the promotion of greater coordination and cooperation for both the prevention and responses to cases of intimidation and reprisal. Regarding follow-up, the issue should be discussed on a regular and timely basis by the Human Rights Council. The report of the Secretary-General on reprisals should be presented in an annual dedicated discussion during a Council session. This would give States concerned the opportunity to give feedback on the steps that they have taken to investigate and take appropriate action in response to allegations. Furthermore it was important that cases were not allowed to drop off the agenda simply because there has been no response to communications or other follow-up by the States concerned. Reference should therefore continue to be made in the report of the Secretary-General each year to any allegations that remain unresolved. If there were no substantive updates to be made on cases, they could be listed in an annex. In addition, an accurate and accessible record of the status of cases could be established through a central database or online registry managed by OHCHR, which would log communications sent, responses received or other follow-up actions. Lastly States concerned should be encouraged to provide information to the Human Rights Council on the status of investigations or prosecutions of allegations contained in the report of the Secretary-General.

33. With regard to the promotion of coordination and cooperation between different protection stakeholders, a number of bodies had made commitments to support human rights defenders, and there was a possibility for greater coordination to maximize individual actors' protection effects. The European Union Guidelines on Human Rights Defenders offered possibilities for further engagement for the protection of individuals and organizations that have faced reprisals for their cooperation with the United Nations human rights system. Furthermore European Union delegations and missions of Member States in third countries had a range of tools at their disposal to intervene in support of affected individuals, including in their dialogues with States. These should be further explored and used. Lastly greater coordination between those stakeholders who could provide practical and emergency assistance to those who have been the targets of reprisals would enable a more holistic response. This could include, inter alia, non-governmental organizations, OHCHR and its field presences, and third-country shelter houses.

III. Summary of the discussion

34. Those participating in the discussion represented Argentina, Australia, Austria, Bahrain, Belarus, Chile, China, Cuba, the Czech Republic, Denmark, Ecuador, France, Honduras, Ireland, Liechtenstein, Morocco, Norway, Paraguay, Poland, Qatar, the Republic of Korea, the Russian Federation, Saudi Arabia, Slovenia, Spain, Sri Lanka, Sweden,

Switzerland, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay and the European Union.

35. Also participating in the dialogue were the national human rights institution of Ecuador (Defensor del Pueblo de Ecuador) via a video message, and non-governmental organizations, namely, the International Federation of Human Rights Leagues in a joint statement, Amnesty International, the Cairo Institute for Human Rights Studies, Lawyers' Rights Watch Canada and Civicus – World Alliance for Citizen Participation.

A. Issues raised by stakeholders

36. Most delegations thanked OHCHR and Hungary, as the main sponsor of Human Rights Council decision 18/118, for convening the panel discussion. The delegations also thanked the Secretary-General and the High Commissioner for their firm stance on reprisals. They also praised the role played by the President of the Council.

37. All participants strongly condemned all acts of reprisal and intimidation for cooperating with the United Nations in the field of human rights, stressing that such acts should be prohibited and prevented. They affirmed that the issue should be a priority for the Human Rights Council and deserved its full and continuous attention. Some participants specifically referred to cases included in the report of the Secretary-General⁶ or provided testimonies on alleged cases of reprisals. Several States stressed the crucial importance of cooperating with civil society and that nobody should be harassed or intimidated for using his or her right to engage with the United Nations.

38. Delegations emphasized that there was a need to strengthen the response to reprisals, both in terms of prevention and in responding appropriately to cases that have already occurred. Several recommendations were made in this regard.

39. Focusing on measures to be taken at the national level, many participants stressed that the primary responsibility to protect those cooperating with the United Nations lay with States, which should guarantee the security of persons who decide to cooperate with the international human rights system. States should take the measures necessary to create social, economic, political and other conditions, as well as legal guarantees required for all persons under its jurisdiction to enjoy all human rights and fundamental freedoms and for intimidation and reprisals not to happen. All States should condemn reprisals unambiguously and act resolutely to prevent, address and end them.

40. Several participants insisted that there should be no impunity for such acts. States concerned should investigate without delay and in an impartial manner any alleged act of intimidation or reprisal and report back to the Human Rights Council. All perpetrators should be brought to justice. States should provide victims with appropriate remedies. Likewise, reprisals committed by non-State actors should also be investigated and the perpetrators should be held accountable first and foremost by the Government concerned.

41. Some States referred to various measures taken to protect human rights defenders, such as national protection programmes or the European Union Guidelines on Human Rights Defenders.

42. Some States referred to international human rights instruments, in particular the provisions relating to reprisals, and called on States to implement them. Similarly, the universal ratification and implementation of international human rights instruments should be promoted.

⁶ A/HRC/21/18.

43. Several speakers stated that the international community had the responsibility to address the issue of intimidation and reprisals in a swift and effective manner. In this context, the need for a combined response from the State at the national level, but also from the international community and the mechanisms it has created, was raised. The international community must also ensure that effective measures were in place to protect victims when the State failed or was unable to do so. In that connection, the need for the international community to conceive means of protection in the event that the State did not have the capacity to fulfil its function of protection of civil society was pointed out.

44. According to several States, the approach of the international community to acts of reprisal should be coherent and systematic. Such acts should be condemned publicly every time they occur, including by using means of communications. It was also proposed that the international community should use all tools at its disposal, from early warning measures and preventive action in accordance with the State's responsibility to protect, through to all tools available from the United Nations human rights system.

45. Participants also made recommendations for representatives and mechanisms of the United Nations, in particular human rights bodies. Although enhanced coordination among human rights mechanisms was welcome, more concerted effort and coordinated action of the United Nations bodies and mechanisms were needed. According to some delegations, concentrated pressure from the entire international community could contribute to the elimination of such cases, which should not be only condemned in speeches, but also systematically addressed within the framework of the universal periodic review, treaty bodies or special procedures in the course of their communications with States.

46. According to several delegations, more should be done to ensure that the United Nations addressed cases of reprisal in a unified and coordinated manner. In this context, the appointment of a mediator or ombudsman by the Secretary-General or the High Commissioner was proposed. The mediator would act as a focal point of the United Nations system and will be seized of all allegations of intimidation and reprisals. He or she would follow all allegations of reprisals, in close cooperation with the human rights mechanisms, by contacting the relevant Governments. The mediator would follow the case until its satisfactory outcome, and should also propose and coordinate technical assistance to help States to establish national programmes for witnesses and victims that denounce reprisals.

47. It was also suggested to explore the question of whether acts of intimidation or reprisal carried out or tolerated by a Government against individuals and groups cooperating with the United Nations in the field of human rights constituted breaches of the State's legal obligations as a Member of the United Nations.

48. Many delegations underlined the specific role that the Human Rights Council should play. In that connection, several recommendations were made. According to several delegations, the condemnation of reprisals in the outcome of the review of the Human Rights Council had opened a new chapter, as the Council was united in its clear condemnation of such acts. Participants emphasized that the Council should take its responsibility to ensure that all those willing to cooperate with it and its mechanisms could do so without fear of reprisal. Delegations stated that it was a question of credibility and a matter of ethics. The Council should ensure that it had effective mechanisms to react to and follow up on any case of reprisal.

49. Referring to the central role of the Human Rights Council in ensuring accountability for reprisals and intimidation, some delegations noted that the Council had this role both with regard to the individuals and groups concerned, but also to the institutional integrity of the Council and of the United Nations. In this connection, all credible allegations of intimidation or reprisal for engaging with the United Nations human rights machinery must be brought to the urgent attention of the Council.

50. Some participants more specifically pointed out that the Human Rights Council should also carefully guarantee the implementation of existing norms with regard to defenders, in particular the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

51. In the view of many speakers, whenever a credible allegation was made, the Human Rights Council must demand that States ensure prompt, impartial, transparent and effective investigation of any alleged reprisal and that perpetrators are held to account. Any Government concerned must report to the Council in plenary session on measures taken to investigate, the outcome of investigations and any prosecution and provision of reparation to victims, in line accordance with Council resolution 12/2.

52. The Human Rights Council should also support efforts by United Nations bodies, including its own mechanisms, to prevent and address instances of reprisal or intimidation, in accordance with Council resolution 12/2.

53. Many delegations stressed that the issue of intimidation and reprisals should be discussed on a regular and timely basis by the Human Rights Council. The report of the Secretary-General on reprisals should be presented in an annual dedicated discussion by the Council. This would give States concerned the opportunity to provide feedback on the steps that they have taken to investigate and take appropriate action in response to allegations. In that context, the Council should explore the possibility of using the general debate under item 5 to address cases of reprisal.

54. It was also proposed that, when a State was responsible for committing a pattern of intimidation and reprisals, reconsideration of the State's membership in the Human Rights Council should be automatically triggered, and that such information should inform future elections for Council membership.

55. Many delegations praised the firm stance taken by the President of the Human Rights Council. In that connection, it was stressed that all future Presidents should speak against reprisals at every Council session, and in particular at the sessions of the Working Group on the Universal Periodic Review, on the basis of the examples set by the last two Council Presidents.

56. Many participants in their interventions addressed the particular role of the Secretary-General and the High Commissioner. Their firm stance and engagement against reprisals was fully supported and seen as an important contribution to creating awareness of the extent of the problem, in particular by means of annual reports on this issue. In this connection, speakers underlined the fact that States should look carefully at the report of the Secretary-General and follow up on the allegations it contained.

57. The report of the Secretary-General was praised as an important tool in the prevention of and fight against reprisals. Some delegations welcomed in particular the inclusion of a section focused on the follow-up to previous cases. Delegations emphasized that the report should receive appropriate attention and follow-up from States and the Human Rights Council.

58. Some delegations noted that facts relating to acts of reprisal and intimidation should be established on the basis of objective and reliable information from credible sources that were duly cross-checked to the greatest extent possible. In this connection, States concerned should be consulted when an allegation of reprisal was made. It should be ensured that information from all sides was gathered and analysed, thereby avoiding a unilateral approach. Sources of information should be varied, and not only based on media reports. Some other States raised concern at some of the information contained in the report of the Secretary-General, which they saw as unconfirmed and unsubstantiated. They also

raised questions in relation to the selective list of States mentioned in the report. Concern was expressed at the tendency to manipulate human rights mechanisms for political purposes.

59. A proposal was made that the review of all policies and practices of the United Nations and mechanisms with regard to reprisals should be done in an objective and impartial manner and in consultation with States.

60. It was also suggested that the United Nations should train both its own staff and special procedures mandate holders in fact-finding methods that avoid unnecessary risks for witnesses, given the fact that unskilled fact-finding techniques might exacerbate the dangers posed to witnesses.

61. Many delegations referred to human rights mechanisms. Appreciation was expressed for the work done by special procedures in relation to reprisals. Joint actions and statements of special procedures, including with regional bodies, were encouraged. It was also stressed that information on visits of the human rights mechanisms should be widely promoted and distributed to ensure that all sectors of society were informed about visits. It was also proposed that special procedures mandate holders receive training on dealing with issues relating to reprisals.

62. Delegations also referred to the universal periodic review as a useful means to address allegations of reprisal in a robust and consistent manner. It could play a role in monitoring allegations of reprisal.

63. With regard to treaty bodies, some of the specific measures that they had developed to address cases of reprisal or intimidation were mentioned, in particular the creation by the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of a specific working group to examine this issue and joint statements with other human rights bodies.

64. Participants stressed the view that treaty bodies should address acts of reprisal in a systematic and consistent manner, including by considering acting through other relevant bodies and mechanisms, such the special procedures or OHCHR. This issue could be further discussed in the context of the treaty body strengthening process.

65. Reference to regional bodies was also made. Some delegations believed that cooperation with regional bodies was important, given that they also had developed specific measures and mechanisms to address reprisals; they should therefore be involved when appropriate.

66. Many delegations emphasized the crucial role played by civil society and the fact the United Nations could not function properly without them. A few other delegations, while acknowledging the important role of civil society and human rights defenders in raising awareness about human rights, stressed that cooperating with the United Nations did not give additional rights and that equality before the law should be guaranteed.

67. Delegations underlined the essential role of non-governmental organizations in drawing attention to the report of the Secretary-General and the e-mail address on which allegations of reprisal could be reported to OHCHR, as well as in reaching out to human rights defenders to submit information with their informed consent. It was noted that non-governmental organizations should continue to raise the issue of reprisals and demand more effective responses.

68. With regard to the participation of civil society representatives, support was expressed for the position of the Secretary-General that the criteria for consultative status for non-governmental organizations must be applied in a “transparent and fair manner”.

69. National human rights institutions were also mentioned as key actors in responding to reprisals at the national level. Their role included not only raising awareness of the issue and related advocacy to convince States to put an end to reprisals, but also offering physical protection to those at risk.

70. It was explained that regional networks of national human rights institutions had developed practices and expertise to address and respond to reprisals that should also be supported.

71. With regard to follow-up, delegations stressed that these exchanges of views should continue and be extended to other human rights forums to ensure a coordinated and coherent approach to reprisals. It was also suggested that all proposals made during the panel discussion should be compiled into a draft set of guiding principles as a basis for follow-up discussion.

72. Participants were of the view that the holding of the panel discussion and the commitments made by States and other stakeholders in this context was a highlight to take forward. Its conclusions should be shared with a view to maximizing protection measures for individual actors.

B. Responses of panellists and concluding remarks by the moderator

73. The panellists were provided with an opportunity to respond to two sets of questions raised by Member States and non-governmental organizations.

74. Szabolcs Takács emphasized the fact that anyone who cooperated with the United Nations could be targeted, although human rights defenders were more often victims of reprisals. He highlighted recent European Union initiatives aimed at protecting human rights defenders as good practices that could be replicated, such as by appointing liaison officers for human rights defenders in diplomatic missions and having regular meeting with them; sending observers to attend trials involving human rights defenders, diplomats attending workshops and training sessions organized by non-governmental organizations; issuing emergency visas and providing human rights defenders in danger with shelter, with particular reference to the International Cities of Refuge Network (ICORN) programme, which comprises a network of 40 host cities providing shelter in the European Union. To increase protection of persons or groups cooperating with the United Nations system, one first and important step could be to ensure that all practical information on addressing acts of reprisal or intimidation, including how to submit a reprisal case is readily available on the OHCHR website. In addition, as pointed out during the discussion, a central registry of cases of reprisal could be established to ensure proper follow-up, welcoming in this context the follow-up section of the report of the Secretary-General. This central registry would also facilitate cooperation among international and regional organizations.

75. As proposed in the report of the Secretary-General, strengthened judicial efforts should be combined with immediate, concrete measures to assist victims. For example, any public official who makes an official statement that puts human rights defenders at risk should be held accountable. In the interest of adequate prevention, all those cases should be investigated immediately, and Governments could inform the Human Rights Council about the results. The establishment of national witness protection programmes should be encouraged, and Governments that require such a programme should seek technical assistance from OHCHR. Mr. Takács also emphasized the important role played by politicians and other opinion leaders, given that public condemnation of acts of reprisal or intimidation is essential to ensure thorough national investigation and transparent reporting. Reprisals committed by non-State actors should also be investigated and perpetrators held to account, first and foremost by the Government concerned. It was also important that all

Governments extend a standing invitation to the Special Rapporteur on the situation of human rights defenders and cooperate fully with her. Lastly, the Human Rights Council should explore the possibility of using the general debate under item 5, to address the issue of reprisals. The universal periodic review mechanism should also be considered in this regard.

76. Michel Forst stressed that the panel discussion had been a success on which future discussions and action on this issue could be built. Responding to comments, he recalled that special procedures mandate holders met regularly with a multitude of interlocutors – such as civil society representatives, activists, policemen, judges and detainees – and stressed that there was no hierarchy among them. One of the risks would indeed be to have a specific category of defenders deserving special protection, and another that did not. All persons had to be treated in the same manner and receive the same protection. In this context, the proposal to have a mediator appointed by the United Nations was very interesting, and Mr. Forst hoped that the idea could be discussed further. He supported the idea of establishing national focal points. In this connection, he reiterated the view that national human rights institutions could play a major role in the protection of individuals who were subjected to threats and harassment, as well as in convincing States to put an end to such harassment. Emphasizing that the recommendations made during the debate related to practical as well as political measures, Mr. Forst stated that although practical measures, such as shelter provision or emergency visas, were useful, political responses were even more important because they could ensure that people who had been threatened could enjoy the right to live peacefully in their country without threats, and also that the perpetrators of such threats would be brought to justice.

77. Claudio Grossman stated that he would report on the discussion to the meeting of treaty bodies Chairpersons to examine how treaty bodies could address acts of reprisal or intimidation further. In this context, he referred to the working group on reprisals established by the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, indicating that the possibility of creating a working group for all treaty bodies could be considered. With regard to the question of whether new legislation was needed, Mr. Grossman stated that some human rights instruments contained specific articles requesting State parties to take all appropriate measures to ensure that individuals under their jurisdiction were not subjected to ill-treatment or intimidation as a consequence of communicating with the monitoring body of the said instrument. In reply to comments that the information provided by human rights defenders was not always accurate, he clarified that, if States felt accusations were unfounded, they should have the opportunity to rebut them. The veracity of the information provided by those cooperating with the United Nations was not, however, the issue to be considered in this context. Whether the information provided by those cooperating with the Organization was correct or not was not a reason to subject them to acts of reprisal, such as torture or assassination. Their safety and the safety of their families should never be put in question. Mr. Grossman reiterated his view that States should contemplate the idea of an internal focal point that could act as an interlocutor should there be indices, suspicion or actions that could be qualified as an act of reprisal. He concluded that greater harmonization and coordination between various actors, particularly with regional organisations and bodies, should also be pursued.

78. Hassan Shire Sheikh Ahmed stated that the holding of the panel discussion was extremely important and its outcome should be shared with all stakeholders to maximise their cooperation and the impact of their respective actions. He reiterated the importance of ensuring appropriate follow-up to cases of intimidation and reprisals. He highlighted the commitments made by States and other stakeholders during the discussion and the need for further cooperation among all actors. In this connection, cooperation with regional human rights mechanisms should be explored further. He referred in particular to the mechanisms

of the African human rights system and to the fact that the African Commission on Human and Peoples' Rights had started to hear cases of reprisals reported by non-governmental organizations. Mr. Shire Sheikh Ahmed reiterated the need for greater cooperation between stakeholders in terms of protection for those who cooperate with the United Nations, and he encouraged the sharing of best practices in this regard.

79. Mehr Khan Williams, as moderator, thanked the conveners of the panel and the participants for what had been a useful and encouraging session conducted in a positive way, allowing all to discuss a critical issue. She also thanked the Secretary-General, the High Commissioner and her Office, whose support had been indispensable, as well as her fellow panellists for the relevant and important comments that they had contributed to the discussion. The concrete proposals made in the course of the discussion should be recorded and discussed, thereby helping the Human Rights Council to address the problem in the future. She stressed that the primary responsibility to protect civil society actors rested with States, and that it was important for them not only to address the allegations of reprisals but, more importantly, also to create a climate in which such incidents could no longer occur. Many good suggestions had been made about enhancing cooperation, and they should be taken seriously. More importantly, the Council should continue to discuss this issue, as it was only through the exchange of views, clarity and the sharing of good information and practices that progress could be made.
