



General Assembly

Distr.
GENERAL

A/HRC/10/36
6 February 2009

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Tenth session
Agenda item 2

**ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND REPORT OF THE OFFICE OF THE HIGH
COMMISSIONER AND OF THE SECRETARY-GENERAL**

**Progress on reports and studies relevant to cooperation with
representatives of United Nations human rights bodies***

Report of the Secretary-General

* Late submission.

Summary

The present report is submitted pursuant to Human Rights Council decision 2/102, in which the Council requested the Secretary-General and the United Nations High Commissioner for Human Rights to continue with the fulfilment of their activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update the relevant reports and studies, and in accordance with Commission resolution 2005/9. In the fulfilment of this mandate, the Secretary-General is invited to submit at the tenth session of the Council an update to his previous report¹ containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against private individuals or groups who have cooperated or sought to cooperate with representatives of United Nations human rights bodies, as referred to in Commission resolution 2005/9.

Chapter I of the report contains information brought to the attention of the mechanisms of the Council and to the Office of the High Commissioner for Human Rights during the period under review, including concerning communications sent to Governments by representatives of the mechanisms. The replies of Governments to such communications have also been included. This chapter lays out the methodological framework according to which action for the protection of victims of reprisals was taken by representatives of United Nations human rights bodies. It also gives an account of situations in which persons have reportedly been intimidated or suffered reprisals for having cooperated with representatives of United Nations human rights bodies, for having availed themselves of international procedures, for having provided legal assistance for this purpose and/or as relatives of victims of human rights violations. It should be noted that, in many instances, it has not been possible to record in this report additional cases due to specific security concerns or because the individuals exposed to reprisals have explicitly requested that their cases should not be raised publicly.

Chapter II is devoted to concluding remarks. The report underlines the continued seriousness of such reprisals as victims suffer violations of the most fundamental human rights. The gravity of reported acts of reprisal reinforces the need for all representatives of United Nations human rights bodies in cooperation with States to continue to take urgent steps to help prevent the occurrence of such acts and ensure that they are not treated with impunity.

¹ A/HRC/7/45.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 2	4
I. INFORMATION RECEIVED AND ACTION TAKEN BY REPRESENTATIVES OF HUMAN RIGHTS BODIES	3 - 20	4
A. Methodological framework	3 - 7	4
B. Summary of cases	8 - 17	5
C. General issues of concern	18 - 20	7
II. CONCLUSION	21	8

Introduction

1. In its resolution 2005/9, the Commission on Human Rights reiterated its concern at the continued reports of intimidation and reprisals against private individuals and groups who seek to cooperate with representatives of United Nations human rights bodies. The Commission also expressed deep concern at the continued seriousness of such reported reprisals and the fact that victims suffer violations of the most fundamental human rights, including the right to life, liberty and security of person, as well as the right to freedom from torture and cruel, inhuman or degrading treatment. The Commission also expressed concern regarding reports of incidents in which private individuals have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms.
2. Pursuant to Human Rights Council decision 2/102, the Secretary-General was requested to submit at the tenth session of the Council an update to relevant reports and studies, including to his previous report on cooperation with representatives of United Nations human rights bodies.² In accordance with Commission on Human Rights resolution 2005/9, this report contains a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against private individuals and groups who seek to cooperate with representatives of United Nations human rights bodies.

I. INFORMATION RECEIVED AND ACTION TAKEN BY REPRESENTATIVES OF HUMAN RIGHTS BODIES

A. Methodological framework

3. In accordance with Commission on Human Rights resolution 2005/9, this report contains information regarding acts of intimidation or reprisal against the following categories of individuals:
 - (a) Those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them;
 - (b) Those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose;
 - (c) Those who submit or have submitted communications under procedures established by human rights instruments;
 - (d) Those who are relatives of victims of human rights violations.
4. In cases in which the victims of reprisals, whether individuals or organizations, have been in contact with one of the bodies or mechanisms of the Council, protective action was taken by the relevant mandate holders. Urgent communications or letters of allegation were in some cases

² A/HRC/7/45.

addressed to the Government concerned. The replies received from two Governments to four of these communications have been summarized in the present report. In this context, it is worth mentioning that within the mandate of the Special Rapporteur on the situation of human rights defenders, established by the Council in its resolution 7/8, the Special Rapporteur was requested, *inter alia*, “to seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms”.

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

6. While this report only mentions a few States, it is in no way intended to be selective; this rather reflects the limited nature of the mandate on which the report is based. Indeed, it is important to note that this mandate limits reporting to cases in which individuals have faced reprisals for having cooperated with representatives of United Nations human rights bodies - this includes treaty bodies, special procedures and the Universal Periodic Review - or those who are relatives of victims of human rights violations. A substantial amount of information covering a larger number of States was collected concerning reprisals against individuals having cooperated with human rights components of the field presences of the Office of the High Commissioner for Human Rights, the Department of Peacekeeping Operations and the International Criminal Court. However, as these types of reprisals are not covered in the resolutions creating this mandate, these cases will not be reflected in the present report.

7. Finally, it should be noted that the cases described in this report do not necessarily represent the totality of acts of intimidation or reprisal against individuals or groups who seek to cooperate with United Nations human rights bodies. Such acts may in many instances be unreported due to lack of access to appropriate means of communication or fear of further reprisals.

B. Summary of cases

8. The following paragraphs cover a variety of situations in which persons have been intimidated or suffered reprisals for having cooperated with United Nations human rights bodies, for having availed themselves of international procedures, for having provided legal assistance for this purpose, and/or as relatives of victims of human rights violations.

1. Colombia

9. On 29 December 2008, an urgent appeal was sent by the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and the Special Rapporteur on extrajudicial, summary or arbitrary executions in relation to the murder of Mr. Edwin Legarda. Mr. Legarda was married to Ms. Aida Quilcué Vivas, a principal counsellor in the Indigenous Regional Council of Cauca (CRIC) and a leading indigenous rights activist in Colombia who

had previously denounced alleged extrajudicial executions carried out by the security forces. Mr. Legarda was murdered when he was on the way to collect Ms. Vivas upon her return from Geneva, where she represented CRIC in the third session of the Working Group on the Universal Periodic Review. According to the allegations that were brought to the attention of the Special Rapporteurs, Mr. Legarda's murder may have been carried out by soldiers from the army.

2. Islamic Republic of Iran

10. On 14 July 2008, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Islamic Republic of Iran concerning the situation of Mr. Mohamad Sadigh Kaboudvand. Mr. Kaboudvand was also the subject of urgent appeals sent by special procedures on 22 September 2006 and 10 July 2007. According to the information received, Mr. Kaboudvand received a 10-year sentence for "acting against State security by establishing the Association for the Defence of Human Rights in Kurdistan" and a one-year sentence for "propaganda against the system". The ruling from the Islamic Revolution Court of Tehran on 16 June 2008 listed, among the charges against him, "sending untrue reports on the situation of human rights to international organizations, e.g. the Secretary-General of the United Nations". It has been reported that Mr. Kaboudvand's medical condition is serious and that he suffered a heart attack while in prison.

11. On 4 September 2008, the Government of the Islamic Republic of Iran replied to the communication sent by the Special Rapporteurs. In its response, the Government stated that "The prison sentence for Mr. Kaboudvand has not been in relation with his activities in defence of human rights or any other peaceful activity", that "Any allegation of maltreatment or lack of proper medical attention to his physical or psychological integrity is baseless and mere fabrication of lies aiming at mal-intended objectives", that "His trial was in accordance with the rule of law and merely in relation with his illegal activities. The allegation of his activities in defence of the Kurdish people is but an instrument to cover his mal-intended activities, and deceiving international human rights bodies" and that "In the Judicial System of the Islamic Republic of Iran, judicial procedures on different cases are carried out on the basis of law, disregarding social titles or positions of the accused individuals. Mr. Kaboudvand also enjoyed all his legal rights before the court of justice".

3. Mexico

12. On 30 May 2008, a prompt intervention letter was sent by the Chairperson-Rapporteur of the Working Group on enforced or involuntary disappearances concerning intimidations and reprisals against the staff of a non-governmental organization engaged in investigating enforced or involuntary disappearances in Mexico and which cooperates with United Nations human rights bodies. According to the information received, 10 soldiers from the army were stationed on 25 May 2008 in front of the offices of the organization while the staff were leaving the building. The soldiers made threatening gestures with weapons in front of the staff, such as removing the safety locks and loading the cartridges.

13. On 11 June 2008, the Government informed the Working Group on enforced or involuntary disappearances that the Director-General of Human Rights contacted the victims to offer protection and that the request for information was forwarded to the competent authorities.

4. Namibia

14. On 7 October 2008, a prompt intervention letter was sent by the Chairperson-Rapporteur of the Working Group on enforced or involuntary disappearances concerning intimidation and reprisals against P.I.N., a civil society activist who cooperates with United Nations human rights bodies. P.I.N. was reportedly intimidated, including with death threats, and attacked for his involvement in investigations of cases of enforced or involuntary disappearances in the country. The reprisals against P.I.N. were allegedly organized within the Safety, Security and Police Ministry.

15. On 17 October 2008, the Government requested further information from the Working Group on enforced or involuntary disappearances on the above-mentioned alleged action.

5. Thailand

16. On 26 February 2008, the Chairperson-Rapporteur of the Working Group on enforced or involuntary disappearances and the Special Rapporteur on the situation of human rights defenders sent a communication to the Government concerning the wife of a human rights lawyer who disappeared in 2004. At the time, she presented his case to the relevant United Nations human rights mechanisms. As a result of her efforts to bring to justice those responsible for her husband's disappearance, she was part of the witness protection programme in Thailand. According to the information received, the Department of Special Investigation decided to transfer the witness protection she was receiving from civilian officers to police officers, who were on trial in connection with her husband's disappearance. As a result, she withdrew from the programme and concern was expressed for her physical and psychological integrity.

17. On 1 October 2008, the Government responded, indicating that she had been placed under the witness protection programme in 2004 and that her protection remains the responsibility of the Department of Special Investigation (DSI), Ministry of Justice, and not the police authorities.

C. General issues of concern

18. The cases of reprisals contained in this report include a range of violations, from direct acts of threats and intimidation, through criminal charges aimed at preventing lawful professional activities and weakening of witness protection schemes to instances of physical violence against human rights defenders, victims or family members. These acts are generally intended to terminate the cooperation of these persons with United Nations human rights mechanisms and other relevant bodies.

19. The alleged victims of these abuses are private individuals, lawyers, human rights defenders or members of non-governmental organizations who were or have been sources of information about human rights violations for United Nations human rights bodies or who had met with their representatives. There are also disturbing allegations that family members of victims of human rights violations have also been the target of intimidation and reprisals.

20. It should be reiterated that this report is not a comprehensive account of all acts of reprisal faced by individuals or groups cooperating with the United Nations. By their nature, a number of cases of reprisals are unreported, inter alia, because of their success in deterring cooperation and the lack of access of victims or their families to communication with United Nations mechanisms. In addition, due to its mandate described in paragraph 3 above, this report does not cover a large number of cases in which individuals have been victims of reprisals for having cooperated with United Nations bodies or mechanisms other than special procedures, treaty bodies or the Universal Periodic Review. These include the field presences of the Office of the High Commissioner for Human Rights, the human rights components of peacekeeping missions under the Department of Peacekeeping Operations, the human rights advisers to United Nations country teams and other parts of the Secretariat. Furthermore, the report does not cover cases of reprisals for cooperation with United Nations specialized agencies. Finally, whereas a great number of national staff members working for the United Nations have faced reprisals because of their work for the Organization, these cases could not be reflected in the present report.

II. CONCLUSION

21. During the period under review, reports of intimidation and reprisals against private individuals and groups who seek to cooperate with representatives of United Nations human rights bodies or against family members of victims of human rights violations have continued to be received. Of particular concern is the continued seriousness of such reprisals as victims suffer violations of the most fundamental human rights, including the right to life, the right to liberty and security of person. The gravity of reported acts of reprisal reinforces the need for all representatives of United Nations human rights bodies in cooperation with States to continue to take urgent steps to help prevent the occurrence of such acts and ensure that they are not treated with impunity.
