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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

Cooperation with representatives of United Nations human rights bodies

Report of the Secretary-General

Summary

In its resolution 2004/15, 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 the United Nations and representatives of its human rights bodies. The Commission also expressed deep concern that the seriousness of such reported reprisals has increased and 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 concerns at reports about incidents where 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.

The Commission invited the Secretary-General to submit to it at its sixty-first session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against those referred to in the resolution. The present report is submitted in accordance with that invitation. Section I of the report refers to information gathered and brought to the attention of the mechanisms of the Commission on Human Rights and the Office of the High Commissioner for Human Rights over the period under review. It first sets out the methodological framework according to which action was taken for the protection of victims of reprisals. It also gives an account of situations in which persons have reportedly 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 for being relatives of victims of human rights violations. The report further analyses the main features of reported acts of reprisal and also depicts the victims of such abuses. Section II is devoted to concluding remarks.

Introduction

1. In its resolution 2004/15, 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 the United Nations and representatives of its human rights bodies. The Commission also expressed deep concern that the seriousness of such reported reprisals has increased and 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 at reports about incidents where 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. The Commission invited the Secretary-General to submit to it at its sixty-first session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against those referred to in the resolution. The present report is submitted in accordance with that invitation. The report refers to information gathered and brought to the attention of the mechanisms of the Commission and the Office of the High Commissioner for Human Rights over the period under review. It also describes situations in which persons have reportedly 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 for being relatives of victims of human rights violations. The report further analyses the main features of reported acts of reprisal and also depicts the victims of such abuses.

I. INFORMATION RECEIVED PURSUANT TO RESOLUTION 2004/15 AND ACTION TAKEN BY REPRESENTATIVES OF HUMAN RIGHTS BODIES

A. Methodological framework

3. 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 Commission on Human Rights, action was taken for their protection by the representative in charge of the relevant mandate of the Commission. Urgent communications were addressed to the Government concerned. The reply received from one Government to one of these communications has also been included in the present report. In this context, it is notable that the Working Group on Enforced or Involuntary Disappearances has a dedicated mechanism to deal with the issue of reprisals. Cases of intimidation, persecution or reprisal against relatives of missing persons, witnesses to disappearances or their families, members of organizations of relatives and other non-governmental organizations, and human rights defenders or individuals concerned with disappearances are transmitted to the Governments concerned, with an appeal that they take steps to protect all the fundamental rights of the persons affected. Cases of that nature which require prompt intervention are transmitted directly to the Ministries for Foreign Affairs by the most direct and rapid means. To that end, the Working Group has authorized its Chair to transmit such cases between sessions. Furthermore, it should also be noted that the mandate of the Special Representative of the Secretary-General on the situation of human rights defenders,

established by the Commission in 2000, is relevant in this context. Commission resolution 2000/61, inter alia, requests the Special Representative “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” (see E/CN.4/2004/94).

4. It should, however, be noted that in many instances it has not been possible to record in this report additional cases, owing to specific security reasons or because the individuals exposed to reprisals have explicitly requested that their cases not be raised publicly. It should also be noted that some of the information included in this report is also reflected in the latest reports presented by each mechanism to the General Assembly or the Commission on Human Rights.

B. Summary of cases

5. The following is a brief summary of information received pursuant to resolution 2004/15. It covers 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 for being relatives of victims of human rights violations

6. **Algeria.** On 27 September 2004, the Working Group on Enforced or Involuntary Disappearances sent a prompt intervention communication to the Government of Algeria in relation to the ill-treatment of family members of disappeared persons whose cases had been taken up by the Working Group. According to the information received, on 20 September 2004 a peaceful march led by the organization Association des familles de disparus forcés de Constantine was brutally repressed by the police during which Ms. Ouaghliissi and Ms. Louisa Saker (both spouses of disappeared persons) were slightly injured. Reportedly, Ms. Saker, Secretary-General of the Association, was brutally arrested by the police. While in detention, she was forced to sign a document in which she stated that she would not organize any other gathering with the families of victims of disappearance. She was reportedly released on the same day.

7. **Bangladesh.** On 28 July 2004, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government of Bangladesh with regard to the threats received by Salam Azad, a writer who is the author of numerous publications raising concerns with regard to the human rights of religious minorities in Bangladesh. On 18 July 2004 the Government banned the distribution and sale of Mr. Azad’s latest novel, *Bhanga Math*, which focuses on the themes of discrimination and human rights violations against religious minorities in Bangladesh, since it alleged that it would incite violence between Muslims and Hindus. While Salam Azad was outside Bangladesh attending a United Nations human rights meeting, he was reportedly warned that he could be at risk of arrest by the authorities upon his return to Bangladesh or that he would be murdered by political extremists. Reports also indicated that Salam Azad’s wife had also received phone calls reiterating those threats. The Permanent Representative of Bangladesh to the United Nations Office in Geneva replied to this communication and explained that Mr. Azad had visited the

Permanent Mission to renew his passport while he was in Geneva. According to the Permanent Representative, Mr. Azad never stated, either to the Bangladesh authorities in Geneva or to the Working Group on Indigenous Populations, which he was attending, that he was feeling threatened in any way.

8. **Brazil.** On 15 June 2004, the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government of Brazil in relation to the situation of Antônio Carlos Ferreira Gabriel, also known as “Rumba”, a community leader who has been particularly active in denouncing cases of police violence in the shanty town of Jacarezinho in the city of Rio de Janeiro. According to the information received, since the launch of a public campaign to denounce incidents of police kidnapping of local residents in 1999, Mr. Ferreira Gabriel has been the victim of constant acts of intimidation and harassment, including anonymous threatening phone calls and a raid on his house during which he was threatened at gunpoint by members of the police force. It is reported that his wife lodged a complaint with police station No. 25 regarding the latter in July 2001. However, following numerous anonymous threatening phone calls from the police, she was forced to withdraw it. According to the information received, on 4 April 2002, “Rumba” was requested to present himself to the police where he was arrested on charges of drug trafficking and placed in detention for four months. He was acquitted by the 34th Criminal Court on 4 February 2003. However, shortly after the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions to Brazil in September 2003, which included a visit to the Jacarezinho favela and during which “Rumba” was actively involved in informing the community of her visit, the decision of the 34th Criminal Court was appealed by the Public Prosecutor to the Rio de Janeiro State Court of Justice. On 11 December 2003, he was sentenced to eight years in prison without parole. The court judge reportedly made this decision without having reviewed the evidence that had led to his acquittal in the first trial. A habeas corpus appeal has been made to the Brazilian Supreme Court. Concern has been expressed that “Rumba” was targeted for his human rights work on behalf of the residents of Jacarezinho. In particular, it has been alleged that the legal proceedings for drug trafficking charges and the decision to appeal his case may be in reprisal for his work to involve the community in reporting police violence to the Special Rapporteur on extrajudicial, summary or arbitrary executions and may be aimed at preventing him from carrying out his human rights work.

9. **Colombia.** On 12 May 2004, the Special Rapporteur on extrajudicial, summary or arbitrary executions, jointly with the Special Representative of the Secretary-General 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 a letter of allegation to the Government of Colombia in relation to the assassination of María Lucero Henao, president of the human rights organization Junta Acción Comunal en la Vereda Puerto Esperanza in the municipality of El Castillo, and her 16-year-old son, Yamid Daniel. According to the information received, María Lucero Henao and her son were murdered at their house on 6 February 2004 by a paramilitary group who accused her of being member of a guerrilla group. Concerns have been raised that Ms. Lucero Henao was executed in reprisal for her human rights activities, which also consisted in submitting information relating to the situation of her community to the Office of the High Commissioner for Human Rights in Colombia as well as to the international community represented there.

10. **Côte d'Ivoire.** On 2 June 2004, the Special Rapporteur on extrajudicial, summary or arbitrary executions, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion, sent an urgent appeal to the Government of Côte d'Ivoire in relation to Amourlaye Touré and Mamadou Fofana, both members of the human rights organization Mouvement ivoirien pour les droits de l'homme (MIDH). According to the information received, Amourlaye Touré, who is currently president of MIDH, reportedly received death threats while he was attending the sixtieth session of the Commission on Human Rights in Geneva. Mamadou Fofana reportedly went into hiding after a group of people visited him at home on 25 April and accused him of "selling his country to foreigners".

11. **Ethiopia.** On 26 March 2004, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government of Ethiopia in relation to Yohannes Solomon, who is reportedly being targeted for his human rights activities and in particular for his advocacy work on behalf of the Ethiopian Human Rights Council as well as for his work in education and the rights of teachers with the Central Council of Ethiopian Teachers. According to the information received, on 6 and 8 March 2004, two plain-clothes policemen reportedly went to the home of Yohannes Solomon in Addis Ababa and stated that they had come to arrest him in order to investigate his human rights activities; the police reportedly added that Yohannes Solomon should stop working for the Ethiopian Human Rights Council. Yohannes Solomon was not there at the time, as he was attending events related to the Commission on Human Rights in Geneva.

12. **Sri Lanka.** On 16 February 2004, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal in relation to Michael Anthony Emanuel Fernando, who was reportedly admitted unconscious to Kalubowila Hospital on 2 February 2004 after he was sprayed in the face with chloroform. Mr. Fernando's case had already been the subject of previous communications by the Special Rapporteur on torture as well as by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, as he had complained on several occasions about serious threats against his life in reprisal for the complaints of human rights violations he had made to Sri Lankan courts as well as to the Human Rights Committee. Indeed, on 9 January 2004, the Committee issued interim measures requesting the State party, while the communication is under consideration by the Committee, "to adopt all measures necessary to protect the life, safety and personal integrity" of Mr. Fernando and his family members "so as to avoid irreparable damage to them". According to the information received, Mr. Fernando was discharged from the hospital on 7 February 2004. He was reportedly accompanied home by the two armed policemen who were guarding him in the hospital under orders from the Sri Lankan Ministry of Defence. However, a request for further protection made on his behalf to the President has reportedly yielded no outcome. As a result of the reported failure of the relevant authorities to provide him with adequate protection, he was reportedly forced into hiding.

C. General issues of concern

13. The reported acts of reprisal range from harassment, intimidation, physical aggression, arbitrary arrests, ill-treatment in detention and death threats to killing. At best, the alleged victims have to endure harassment or intimidation or are, for example, subjected to judicial proceedings designed to put an end to their cooperation with United Nations human rights bodies, or intended as reprisals against such cooperation. Information received also includes accounts of a human rights defender who has been forced to sign, while in detention, a document intended to restrict her human rights activities. Other individuals have been forced into hiding as they do not receive adequate protection from relevant authorities despite the intervention of United Nations human rights bodies requiring such measures. Victims also suffer violations of the most fundamental human rights, including the right to mental and physical integrity, to liberty and security of person, and, at worst, the right to life.

14. The alleged victims of these abuses are private individuals, writers, community leaders, 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 of cases where family members of victims of human rights violations have also been the target of intimidation and reprisals, or were brutally murdered.

II. CONCLUSION

15. **During the period under review, reports of intimidation and reprisals against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies 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 mental and physical integrity, to liberty and security of person, and, at worst, the right to life. The gravity of reported acts of reprisal reinforces the need for all representatives of United Nations human rights bodies to continue to take urgent steps to help prevent the occurrence of such acts. One positive step in this respect was the discussion at the fifteenth session of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights held in Seoul in September 2004 of guidelines to assist national institutions in their collective response to threats against their institutions or individuals therein. These guidelines will be adopted at its sixteenth session, to be held in Geneva in April 2005.**
