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Oral presentation by the Assistant Secretary-General for Human Rights of the report of the Secretary-General on cooperation with the UN, its representatives and mechanisms in the field of human rights

Agenda Item 5

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Mr. President, Excellencies, colleagues,

Thank you for the opportunity to address intimidation and reprisals for cooperation with the UN in an interactive dialogue. We greatly appreciate the Council for devoting particular attention to this alarming issue. I would particularly like to thank you, Mr. President, for your introductory remarks which helpfully set the context for this dialogue.

The significant resolution at the last session of the General Assembly, adopted by consensus in advance of the 20th anniversary of the UN declaration on human rights defenders, condemned all acts of intimidation and reprisal by State and non-State actors and strongly called upon all States to give effect to the right of everyone, individually and in association with others, to unhindered access to and communication with the UN.

But as we convene here today, to exchange views freely, I cannot help but recall that many individuals have been barred from entering this very chamber.

Whether because they have been subject to a travel ban to prevent their participation, or their accreditation has been blocked because of their activism, or because they languish in detention for sharing information with us, many are shockingly excluded from a body designed for open dialogue. Others may have shied away from their right to participate, out of fear of what might happen to them after they are seen or heard here.

In the report that I am presenting to you, the Secretary-General states that “Punishing individuals for cooperating with the United Nations is a shameful practice that everyone must do more to stamp out,” and that any act of intimidation or reprisal for cooperation with the UN is unacceptable and runs contrary to the principles of the Organization, and that much more can be done – by all of us.

The report demonstrates that the magnitude and scope of reprisals is far-reaching, and their impact is visible globally in the field, where UN personnel often encounter people too afraid to speak with them.

At the community level it is not just those making complaints who are being targeted, but also their legal representatives, intermediaries, witnesses and interpreters. Acts of serious cruelty have been reported against those who dare to cooperate with us – incommunicado detention, torture and ill-treatment, prolonged solitary confinement, and even killings.

But intimidation and reprisals happen even under our noses in the diplomatic hallways of UN headquarters in New York and Geneva. Individuals have been unwillingly filmed or photographed, their statements in closed sessions secretly recorded, or harassed at UN events, creating a climate of intimidation that is clearly intended to deter others from future participation.

Women and LGBTI persons report particular barriers and violence. Threats of rape, online smear campaigns, physical searches and humiliating and degrading treatment, including a case of sexual assault in detention have been reported to us.

There is a cost for the United Nations as well. In conflict settings, a fear of reprisals poses an obstacle for the Organization to fulfil its mandate to deliver humanitarian assistance and protect civilians. In the development context, without the participation of those affected, how can development be sustainable?

A hostile environment for community members in many countries who engage on land and resource-related projects is frequently reported, especially among indigenous peoples.

We are trying to better understand the scope of intimidation and reprisals throughout the UN system. The report includes reprisals for cooperation with the international human rights mechanisms, and various bodies of the General Assembly, the Economic and Social Council, the Security Council. There are several UN organizations addressing the issue with policy developments and protection initiatives, such as the ILO, Department of Peacekeeping Operations, the World Bank, and UNDP. We intend to do more to engage UN partners who are witnesses to reprisals, and discuss guidance with them on how to more effectively address the issue of reprisals as a system, such as encouraging vigilance to incidents and indeed reporting.

The report includes allegations documented in a total of 38 countries. Some of these are members of the Human Rights Council. Some have featured in the annual report on reprisals nearly every year since it was instituted in 2010.

But the content of the report depends on the information received and therefore the picture reflected in it is therefore incomplete. We are the first to recognize this point. We are aware that we may receive more allegations from countries with a vibrant and active civil society than from countries where freedoms are seriously curtailed. We also receive some cases that cannot be included given the serious risks for those affected. The number of cases related to each country in the report should therefore not be the main prism through which the practice of reprisals should be assessed.

We have received many enquiries about the methodology for this report. When we receive allegations, they go through a process of verification and corroboration, and are documented following UN standards guided by the principle of “do no harm” and respect for confidentiality of the victim and sources.

Let me underline that this report being a tool of cooperation and engagement with States and civil society, and maintaining dialogue with all, is crucial for its success. It is encouraging to note that many governments have given allegations of reprisals particular attention, and taken the time to do their own investigations. Some have responded substantively in writing to the various UN actors addressing cases, and the government responses are duly summarized in the report along with the allegations which were presented to them. The cases in the report remain allegations and are presented as such. But we are reflecting on how best to reflect and acknowledge the level of engagement by States and the responses provided.

Improving documentation of cases and trends is a core function of my role to help enhance a response throughout the UN system. In follow up in allegations received, I have addressed a number of cases directly with governments, in confidential letters and during meetings in New York and when on field missions. I am grateful for the constructive and substantive responses in many of these exchanges. I would also call on those who have not engaged at all to consider dialogue on specific cases with us and respond to written allegations.

While the majority of cases show that incidents are usually perpetrated by State officials, or at the very least are condoned by the government, the Secretary-General notes in the report that “violations by non-state actors must be taken seriously” and that “private citizens, corporate actors and non-State groups must be held accountable as well.” In certain cases, governments have responded that the allegations presented to them have brought to light incidents or dynamics that they were not aware of.

Among the large scope of reprisals, I believe there are three particularly disturbing trends worth emphasizing. First, the Secretary-General notes in the report that “States have frequently invoked counter-terrorism as the reason an organization or individual should be denied access to the UN.” The report highlights that some NGOs and human rights defenders, activists and experts have been labelled as “terrorists” by their governments, whether they are officially charged with terrorism, blamed for cooperation with foreign entities, or accused of damaging the reputation or security of the state. Others have been accused of criminality.

Beyond the narrower context of reprisals, I would note in parentheses a growing and profoundly regrettably phenomenon: the systematic denigration of human rights defenders and civil society organizations, the dismissal of entire categories of people seeking to stand up for rights as “terrorists.”

In many responses to various UN actions, governments respond insisting that the allegations are not reprisals, or they avoid addressing that aspect of the allegation entirely. If we are to work together to deal with this phenomenon, we must face this aspect.

A second trend is that reprisals are often disguised in legal, political and administrative obstacles. The Secretary-General notes that measures such as selectively applied laws and policies, or new legislation that restrict the operations of organizations cooperating with the UN, are being used in many countries to undermine the legal legitimacy and ability of NGOs to acquire funding, especially from foreign donors. This undermines their capacity to engage with the UN, and of course contributes to the further shrinking of civic space.

The Secretary-General rightly notes in the report that “at a time when space for civil society is shrinking in various spheres, it is essential that the United Nations encourage engagement with civil society.”

The third trend that we are seeing is the use of accreditation and security procedures to hinder people from speaking out at UN headquarters and elsewhere. In particular, I have sought to engage the NGO Committee in New York, which makes recommendations to ECOSOC on

consultative status that confers access to certain bodies of the UN. In light of this trend, the Secretary-General in the report called on “the Committee to apply the criteria for assessing organizations in a fair and transparent manner.”

Addressing emblematic cases has been a priority for us during the reporting period. For example, cases addressed by either me or special rapporteurs including Michel Forst have addressed allegations of terrorism against the Alkarama Foundation and other human rights organizations. In wider trends, the repeated deferrals and apparent lack of transparency in decisions on consultative status by the NGO Committee has in some cases amounted to *de facto* rejections for human rights organizations, such as in the case of the International Dalit Solidarity Network (IDSN).

Civil society partners have continued to show incredible courage in continuing their important research, advocacy and reporting on human rights violations to the UN, despite the trends and obstacles placed before them. In addition to the impact on the victim and their families, colleagues and partners, intimidation and reprisals send a chilling message to others to discourage participation with the UN, and a warning of what will happen if they do. This is certainly the effect of reprisals, which are carried out not only to punish people from having spoken, but also to deter others from doing so in the future.

One year ago, in addressing this Council I said that it was “frankly nothing short of abhorrent that, year after year, we are compelled to present cases to you, the UN membership, of intimidation and reprisals carried out against people whose crime – in the eyes of their respective Governments – was to cooperate with the UN institutions and mechanisms whose mandate of course derives from you, the UN membership.”

It is heartening that the Council has shown great readiness to discuss this issue. What is more disappointing is that here I am before you, one year on, presenting another report that in no way suggests the scale of the problem is diminishing. To the contrary, the cases presented in the report are merely the tip of the iceberg, a small fraction of those reprisals that we believe are actually carried out. We have a long way to go before this odious practice is stamped out.

Thank you again for considering this issue. I look forward to a dialogue on recommendations for the way forward.