

**High-level panel discussion on “Stopping the reprisals for cooperating with the UN in the field of human rights”, New York, 21 October 2011**

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1. It is an extremely positive sign that the United Nations is addressing this crucial issue and that it is doing so at the very highest levels of the organization. The participation of the Secretary-General and of the High Commissioner for Human Rights on this panel will hopefully ensure that very careful consideration is given to the challenge of how best to respond to instances of retaliation against those who cooperate with UN human rights monitors.
2. I am speaking today as a former UN Special Rapporteur on extrajudicial executions who was obliged in a range of countries to confront the reality that people who had had the courage to provide me with information subsequently suffered reprisals carried out or orchestrated by officials of the governments concerned. In several high-profile cases, individuals with whom I met paid the ultimate price – they were targeted and killed, almost certainly by the security forces and almost certainly, at least in part, because they had provided me with evidence of serious wrongdoing by those forces. So the issue is a very real one.
3. The challenge should also be seen against the background of perhaps the most important development in the UN’s human rights programs in the past year or two which is the dramatic increase in the number of high-level international inquiries, whether commissioned by the High Commissioner herself, mandated by the Human Rights Council, or established by the Secretary-General to advise him. The proliferation of these high-profile and crucially important fact-finding missions further increases the potential for reprisals to be taken against those who testify before the UN, whether they be victims, serving or former security force members, or civil society representatives.
4. Before going any further, we need conceptual clarity as to our focus. There is a significant distinction between the general situation of human rights defenders who are attacked or harassed by their governments, and those who are victimized primarily because they had some direct contact with a UN fact-finding mission. All defenders deserve protection and the UN should do all it can in that regard. But the focus of this panel should be on the added responsibility incurred by the UN when its representatives seek or accept information from a witness in furtherance of an inquiry they have initiated.
5. Why should the UN make a special effort in such cases? First, because it incurs a clear ethical responsibility as a result of its engagement with a witness who puts herself at risk in order to provide the information the UN is seeking. Second, because the easiest way to undermine the potential for any investigation to lead to prosecutions is to send the message that reprisals will work. And third, because future UN inquiries will be undermined if it becomes clear that the UN will not take necessary steps to protect those who work directly with it.
6. All of the international criminal tribunals have recognized the vital importance of witness protection and the UN needs to strive to ensure that it too can provide at least minimal protection

in relation to its own fact-finding activities. The preparation of an annual report is a good starting point, but it is only the first step.

7. Before considering what the UN should do, we need first to acknowledge that there are limits. It should not create unrealistic expectations; it should not provide an incentive for those already at risk to run to the UN in the hope of gaining additional protection; and it should not undertake to do more than is reasonably possible in deeply contested situations.

8. Against that background, these are the steps that I think should be considered:

(a) Recognize a responsibility to do whatever can be done to protect witnesses against reprisals linked to their cooperation with the UN.

(b) Train both UN staff and Special Procedures mandate-holders in methods of fact-finding which avoid unnecessary risks for witnesses – unskilled fact-finding techniques exacerbate the risks to witnesses.

(c) Include unpublicized contingency arrangements in planning for fact-finding in especially vulnerable contexts.

(d) Establish an urgent response procedure when reprisals are threatened or occur. This might be under the auspices of the HCHR herself, or of the President of the Human Rights Council.

(e) Civil society organizations and states through their diplomatic missions should expand arrangements to provide financial and other assistance to individuals who are at risk, including, where necessary, assisting in relocation to a secure place.