

Unofficial Transcript

Concluding comments 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

**42nd Session Human Rights Council
Agenda Item 5**

Geneva, 20 September 2019

Thank you. Today has been a very rich and fruitful debate and I would like to thank every speaker: those who have been totally supportive of what we are doing; those who are utterly opposed; and those who are somewhere in-between.

A number of countries have asked quite some big questions as to what more they can do to help, what more the UN can do, and what more the countries concerned can do. The Czech Republic, Denmark, Costa Rica, Croatia, Ireland, Moldova, Human Rights Watch and others have all asked. In the interest of time, I will answer them together.

What do we think could help contribute to a conducive environment? Cooperation with the UN includes a number of elements: freedom of movement to allow people to have access to the UN, and they are not restricted by travel bans; legislative environment that encourages people to be able to set up organizations and cooperate with us; freedoms of expression and assembly and association; and a form of internet freedom, but within limits so that it does not lead to anonymous smear campaigns, but enough freedom so that individuals and organizations may post opinions.

In addition, for accountability, we strongly believe that States should try to ensure prompt and impartial investigations of allegations, access to justice, and ensure that people can participate freely. Accountability for reprisals will only be improved if States take the issue seriously, including stating unequivocally that they have a no tolerance policy for reprisals, taking prompt measures to investigate allegations, engaging with victims, ensuring judicial independence, whether they are States or non-States that they can be brought to justice, providing remedies for victims, and creating a safe environment.

The representative of the European Union asked about self-censorship. This is a very important point as we established. And let us be under no illusions here, self-censorship is the aim. It is why States and others carry out reprisals and intimidation. Their ideal is that human rights defenders should self-censor and it is only when they refuse to self-censor that reprisals are taken. It is a very difficult issue because it is hard to prove if human rights defenders and organizations are so intimidated that they do not even want to engage with us to report on the reprisals that they have suffered, that of course is hard for us to put in. But it is an important point. We find it problematic that States that do these things should be rewarded for carrying out such reprisals, in the sense that we are then prevented from reporting on the reprisals

themselves. It is something we are going to work harder on, but when we report on it please understand that that is exactly why reprisals take place. The people doing it want self-censorship to happen.

As I said, we received a number of very helpful questions today. On some of the more specific points raised, I would like to very quickly go through these. I entirely agree with, for example Belgium and others, who talked about Human Rights Council members needing to live up to the high standards expected of them, and the incompatibility of membership of the Council with frequent targeting of human rights defenders for reprisals. I thank Angola for stressing, and this is a very important point, the importance of us continuing to reflect the views of Member States in the report. For us this is a crucial form of engagement. We invest heavily in reaching out to Member States, and we very much welcome when Member States respond constructively, as most do.

I agree with the comments from the representative of Palestine about the restrictions of civil society in the Occupied Palestinian Territories, but also the impunity for those who carry out attacks and intimidation against human rights defenders there. I note also comparable comments by the Pakistani representative regarding Kashmir.

The UK Ambassador rightly pointed out the threats that we see targeted at indigenous defenders, environmental defenders and land rights defenders. We have a particular concern on that.

I would like to thank Hungary, which is a strong member of the “core group,” for supporting our mandate and for its very robust engagement with us, despite our disagreement on the specifics of a couple of cases. We do not think that what is in the report is biased politically, or false or unchecked. It is certainly not the case that Hungary’s effort to engage was unanswered by us, nor were we judging it based on differences of opinion on migration. It is just that for the criteria that we have set on intimidation and reprisals, we think the examples meet that criteria.

A number of States gave very helpful and positive comments – including Fiji, Maldives, Montenegro, Costa Rica, Georgia, Ireland, Bangladesh. Bahamas was notable not only for its supporting comments, in general, but for its very specific case that it flagged, and it did so in a very constructive way, and we believe that that is an example of good practice and we are grateful to the Bahamas for that.

I thank Egypt for its cooperation as demonstrated by the representative here and also by the frequent written communications we have had. And we by the way agree, and this is the point made by both Egypt and India and others, that the fact that an individual or organization has cooperated with the UN does not automatically mean that that individual or organization deserves impunity for other crimes. We agree on that point in principle.

Cuba rejected the mandate and also the way we carried it out; the “unfounded allegations”, the “double standards” and, like last year, it accused human rights defenders of being “mercenaries of a foreign power”. As I said last year in response to that exact phrase, I do believe that phrase says more about Cuba than it says about the human rights defenders that they are talking about.

Iraq, Iran, Viet Nam and Venezuela all referred to the constructive dialogue we had, while making clear that they have differences with us over particular cases. Several delegations

brought up gender, women's rights, and LGBTI. This has been a priority for my office over the last 3 years, and I am absolutely convinced it will remain a priority for whoever takes on this mandate next.

Turning to NGOs, and I would like to thank GANHRI. Yes, we are very concerned about the National Human Rights Institution in the Philippines and the Ombudsman in Guatemala. Likewise, the Right Livelihood Award Foundation mentioned Guatemala and CICIG, Ivan Velazquez and Helen Mack. ISHR, which is a world leader in the issue of reprisals and we should all be grateful to ISHR for its role in this, but I do not accept the charge that the Secretary-General has been "pandering", their word, to powerful Member States. We are concerned, like you are (ISHR), about Brazil, Russia and the United States. But I would like to point out that the case you raised regarding the United States and the threats by Mr. John Bolton, as it happens, against the ICC are not strictly within the mandate of this report because the ICC is not strictly a UN body [it is a related organization] and that is why it is not there. Alsalam, thank you for bringing further information about Bahrain, and Human Rights Watch and the Cairo Institute for raising issues about Egypt. A number of NGOs but also the German Ambassador mentioned the case of Ibrahim Metwally who is one of the emblematic, possibly the most emblematic. of all cases of reprisals, a man who two years ago was arrested at Cairo airport on his way to Geneva to engage with us and human rights mechanisms on human rights issues. I am glad that CIVICUS raised the issue of the cases of some Saudi women for whom we are deeply concerned about. I thank the Comisión Mexicana for the important point on her country and impunity.

To conclude, a number of countries accused us of having "unsubstantiated" allegations. I would like to point out that some of those countries prevent us having access to go and substantiate it, so I slightly feel you are having it both ways. You say that we do not substantiate our allegations but then you do not allow people to go and actually do the substantiating. Nevertheless, we do believe that even if we cannot be absolutely certain that an allegation is correct, we do believe that there are strong grounds for imagining that it is.

China pointed out that it thinks I have refused to listen, but I have not, I have listened very, very carefully to every meeting we have had, and also read all the communications. And, indeed, the report summarizes, in some quite substantial detail, China's position on each of those cases.

A number of countries referred to the reflection of their governments' submissions. Thailand said we did not reflect theirs at all, but actually we have an enormous contribution from Thailand in the report. The whole of paragraph 102 of Annex II and large sections of paragraphs 99 and 100 are detailed summaries of the Thai Government's position. Similarly, Viet Nam felt that we did not give a balanced summary in paragraph 123 and that it was selective, but we do believe that it was an accurate reflection of their view.

I think part of the issue is that some States think that, after we have contacted them regarding a particular allegation, they believe that once they write back denying (as they unfailingly do) that it was a reprisal, that that should be the end of the story. But it is not, and we are very careful to show in the report that we are taking the allegation but we do not necessarily assume that the allegation is the undisputed truth, although we would not include it if we did not think that there was strong reasons for thinking that there was some truth in it. Similarly, when we hear the government's position, which the governments concerned have provided us with, we

also do not assume that this is the undisputed truth. We put down, and we believe in a balanced way, the two points of view.

Again, I would like to thank everybody. I think last year at the very end I pointed out that there are essentially three categories of interventions among Member States. There are those who are unequivocally supportive and whose questions go in the direction of what more can they or we do to combat the scourge of reprisals and intimidation. There are those who say they are supportive of the mandate but then are critical of us in varying ways of how we do it, by saying that the cases we have referred to are politicised or just inaccurate. And then there is a third category (of two Member States) who believe that what we are doing is counter to the Charter. Well, I can say that we very much reject that charge, that somehow we are doing is opposed to the UN Charter. I think it is fully in line with every aspect of the Charter. But in any case, as I have said I thank all three groups of States for their very helpful interventions.

Thank you, Mr. President.