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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*

* The present report was submitted late in order to reflect the most recent information.

Summary

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 the United Nations and representatives of its human rights bodies. The Commission also expressed deep concern at the seriousness of such reported reprisals 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 of 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 at its sixty-second 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, as well as to the Office of the High Commissioner for Human Rights over the period under review. The replies received from three Governments to two communications have also been included in the report. It lays out the methodological framework according to which action for the protection of victims of reprisals was taken by the bodies or mechanisms of the Commission on Human Rights.

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 as relatives of victims of human rights violations. It should be noted that it has not been possible to record in this report many other cases owing to specific security concerns or because the individuals exposed to reprisals have explicitly requested that their cases should not be raised publicly. It should also be noted that the information included in this report is reflected in the latest reports presented by each of the mechanisms to the General Assembly or the Commission on Human Rights. 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. The report underlines the continued seriousness of such reprisals, as victims suffer violations of the most fundamental human rights, including the right 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, in cooperation with States, to continue to take urgent steps to help prevent the occurrence of such acts.

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 the United Nations and representatives of its human rights bodies. The Commission also expressed deep concern at the seriousness of such reported reprisals 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 regarding reports of 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-second 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.

I. INFORMATION RECEIVED PURSUANT TO COMMISSION ON HUMAN RIGHTS RESOLUTION 2005/9 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, protective action was taken by the representative in charge of the relevant mandate of the Commission. Urgent communications or letters of allegation were addressed to the Government concerned. The replies received from three Governments to two of these communications have also been included in the present report. In this context, it should be mentioned 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 relatives' organizations and other non-governmental organizations, 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 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 (see E/CN.4/2005/65). Furthermore, it should be noted that the mandate of the Special Representative of the Secretary-General on the situation of human rights defenders is relevant in this context. Commission on Human Rights resolution 2000/61 requests, inter alia, 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 also E/CN.4/2005/67).

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

B. Summary of cases

5. The following is a brief summary of information received pursuant to resolution 2005/9. 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 as relatives of victims of human rights violations.

6. **Brazil.** On 4 March 2005 the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders sent a letter of allegation to the Government of Brazil in relation to the situation of **Sister Dorothy Stang**, an environmentalist, human rights defender and member of the Pastoral Land Commission (Comissão Pastoral da Terra), an organization of the Catholic Church which works to promote and defend the rights of rural workers and land reforms in Brazil. According to the information received, on 12 February 2005 at approximately 9 a.m., Sister Dorothy was shot several times, resulting in her death, as she walked to attend a meeting in the town of Anapu, Pará. The attack came less than a week after Sister Dorothy had met with the Brazilian Human Rights Minister, Secretary Nilmário Miranda, to report that four local farmers had allegedly received death threats from loggers and landowners. Sister Dorothy had received a number of awards for her work as a human rights defender, including the Human Rights Award from the Bar Association of Brazil, which she received on 10 December 2004. It is also reported that the OAB had included Sister Dorothy on a list of human rights defenders who faced possible murder. On 22 October 2004, Sister Dorothy met with the Special Rapporteur on the independence of judges and lawyers in Belém during his mission to Brazil. It is feared that Dorothy Stang was killed as a direct result of her human rights work, in particular her work to denounce violations by landowners and illegal loggers in the State of Pará.

7. In their letter, the Special Rapporteurs commended the Government of Brazil for the swift action it had taken to bring those responsible to justice and the steps adopted to address the climate of vulnerability experienced by human rights defenders in the State of Pará. However, they remained concerned for the life and safety of human rights defenders in this area, especially those individuals who have interacted with United Nations mechanisms. Their concerns were heightened by the fact that the killing of Dorothy Stang constituted the third case of such reprisals in Brazil against human rights defenders who have interacted with United Nations mechanisms. In particular, reference was made to earlier interventions in 2003 concerning the killings of Gerson Jesus Bispo and of Flávio Manoel da Silva, a key witness for investigations into the actions of extermination groups operating in the cities of Itambé and Pedras de Fogo. Both men had provided information to the previous Special Rapporteur on extrajudicial,

summary or arbitrary executions during her country mission to Brazil in September 2003. In view of the planned visit to Brazil of the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteurs called on the Government of Brazil to explore appropriate measures to ensure the protection of those individuals who interact with the United Nations, in particular with Special Rapporteurs and Representatives of the Commission on Human Rights.

8. On 29 March 2005, the Government of Brazil responded to the Special Rapporteur, informing him that, immediately after the assassination, the federal Government had taken the following measures: on 12 February, the Special Secretary for Human Rights, Nilmario Miranda, travelled to the municipality of Altamira, in the State of Pará, from where he left for the municipality of Anapu. The Minister of Environment, Marina Silva, who was in the State of Pará on the same day, also visited the scene of the crime. Federal policemen took custody of the body, preserved the crime scene, collected evidence and provided police protection to the witnesses. The Federal Police opened an inquiry in partnership with the Civil Police of the State of Pará. On 13 February, the Attorney-General of the Republic, the National Land Ombudsman and the President of the National Institute for Colonization and Land Reform (INCRA) travelled to the State of Pará in order to help in the investigations. On 13 February, the Court of Justice of Pará State issued an order of preventive arrest of four people suspected of being involved in the assassination of Sister Dorothy. The arrest order refers to the two alleged executors of the crime, to the person who supposedly gave the order to kill Sister Stang and to a fourth person, who allegedly had mediated between them. On 15 February, a meeting was convened in Brasilia, at the Cabinet of the Presidential Chief of Staff with the participation of the Ministers of Environment, Justice, Agrarian Development, National Integration and Human Rights in order to discuss the conflicts in the State of Pará. The President of the Republic ordered that 2,000 soldiers, supported by aeroplanes of the Air Force, be dispatched to the crime site. On 19 February, Amair Frejoli da Cunha, nicknamed "Tato", who is suspected of having acted as an intermediary in the process, presented himself to the police station which deals in crimes against women in the municipality of Altamira.

9. The following day, Rayfran das Neves Sales, nicknamed "Fogoió", who is accused of being one of the executioners, was preventively arrested by the Civil Police of the State of Pará with the help of the Army. On 21 February, the Federal Police arrested Clodoaldo Carlos Batista, who supposedly is the second executor of the crime. According to the Government, Vitalmiro Gonçalves de Moura, who actually planned the crime, was the only fugitive from justice. However, finding and presenting Moura to the authorities has been treated as high priority. In relation to measures taken to identify and punish those liable for the murder of Sister Dorothy Stang, the government of the State of Pará has acted with a view to strengthening the structures of the administration and of the police in order to fight against deforestation and promote economic and ecologic zoning, land regularization and sustainable settlements. The federal Government has also taken measures to strengthen and guarantee the protection of human rights in the region. Thus, on 21 February, a Working Group was created under the Special Secretary for Human Rights of the Presidency of the Republic to monitor the situation in the State of Pará. According to the Government, one of the most important measures to be taken is the protection of people in the region who are under threat. Accordingly, the Working Group will suggest actions to be taken by federal and state officials in order to fight these human rights violations. The Government of Brazil reiterated its commitment to all efforts to punish those responsible for the death of Sister Dorothy Stang.

10. In an additional response, dated 17 May 2005, the Government of Brazil informed the Special Rapporteurs that by decrees 66 and 89/2003 it has established a working group to elaborate a national programme for the protection of human rights defenders that was launched on 26 October 2004 at the Parliamentary Commission on Human Rights. Members of the Government and the civil society have participated in this new initiative. The National Congress has approved a budget of 1.2 million reales to finance this programme. The Congress is also currently working on a draft law (N03616/2004), including a chapter for the protection of victims and witnesses of human rights violations under threat. Within this protection programme, a database compiling all human rights violations as well as threats against human rights defenders is being set up in nine pilot States, namely Paraíba, Pará, Rio Grande do Norte, Pernambuco, Bahia, Espírito Santo, São Paulo, Mato Grosso and Paraná. Further efforts are being made in Espírito Santo, Pará and Pernambuco to establish a methodology and standards of emergency procedures for the protection of human rights defenders. The protection programme in the State of Pará was established in February 2005. The killing of Sister Dorothy Stang has triggered the implementation of an emergency programme: lists of human rights defenders under threat were constituted and investigations of suspected military and civilian police officers were carried out. Similar programmes are being established in the States of Espírito Santo, Pará and Pernambuco.

11. **China.** In a press statement issued at the end of his fact-finding mission to China from 20 November to 2 December 2005, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment mentioned that “during the visit a number of alleged victims and family members were intimidated by security personnel, placed under police surveillance, instructed not to meet the Special Rapporteur, or were physically prevented from meeting with him”.

12. **Nepal.** On 18 February 2005, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government of Nepal regarding **Gauri Pradhan**, advocate for children’s rights and founding president of the Child Workers in Nepal Concern Centre (CWIN), a leading child rights organization focusing on child labour, trafficking, and the impact of conflict on children. Mr. Pradhan was arrested by police at Kathmandu Airport on 17 February 2005 following his return from Geneva, where he had attended a working group meeting of the Committee on the Rights of the Child. Mr. Pradhan had reportedly expressed the fear that he might be arrested upon his return to Nepal. At the time that the urgent appeal was sent to the Government of Nepal, he was reportedly being held at the police headquarters in Naxal, Kathmandu and the reason for his arrest was still unknown.

13. On 19 April 2005, 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 Nepal regarding human rights defender **Shiva Kumar Pradhan**, Secretary General of the People’s Forum for Human Rights and Development (PFHRD), a Nepal-based Bhutanese non-governmental organization. Mr. Pradhan was arrested on 19 September 2001 and charged with murder. The Special Representative of the Secretary-General on the situation of human

rights defenders had intervened in relation to his detention in April 2004 by sending an urgent appeal, to which the Government of Nepal had responded. According to the information received, the District Court of Chandragari, Jhapa, sentenced Mr. Pradhan to three years' imprisonment on 22 August 2004. He was released on 21 September 2004, three years after his initial detention. Since then, Mr. Pradhan has not been able to obtain a travel document to carry out his human rights activities. On 10 November 2004, Mr. Pradhan applied to the governmental Refugee Coordination Unit (RCU) in order to obtain a travel document to be able to attend the December conference of the World Forum for Democratization in Asia to be held in Taiwan, China. Reportedly, he was denied such a travel document. In early March 2005, Mr. Pradhan applied once more to the RCU for a travel document to attend the sixty-first session of the Commission on Human Rights in Geneva. Although he had included all necessary documentation, he was denied such authorization. Concerns were expressed that this denial was meant to prevent Mr. Pradhan from carrying out his human rights defence activities.

14. **Thailand.** On 7 September, 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 Thailand regarding **Angkhana Neelapaijit**, wife of Somchai Neelapaijit, Chairman of the Muslim Lawyers Association and human rights defender, who had reportedly been missing since 11 March 2004 and who was the subject of previous communications by Special Rapporteurs. According to the information received, on 18 April 2005 Ms. Neelapaijit received a telephone call from a member of the Police Intelligence Special Unit who asked her whether she had made any submissions to the United Nations or contacted any non-governmental organization for assistance. The police officer also asked if she would like to meet with the Prime Minister. Ms. Neelapaijit reportedly felt under threat as she was aware that the Asian Human Rights Commission had made a statement on her behalf on the same day at the United Nations Commission on Human Rights. On 12 July 2005, Ms. Neelapaijit reportedly received an anonymous call warning her that she may be in danger and that she could be shot at while at home or in the street. When Ms. Neelapaijit told her interlocutor that her telephone lines could be tapped, he replied that he had nothing to fear from the police. On 15 July 2005, Ms. Neelapaijit was leaving for Geneva to attend the session of the United Nations Human Rights Committee on Thailand, when four government officers from the Ministry of Social Development and Human Security paid her a visit at her residence. They reportedly offered to provide her and her children with assistance and asked whether she was receiving any help from non-governmental organizations. According to the information received, in April and May 2005, Ms. Neelapaijit was placed within the Ministry of Justice witness protection programme. However, she asked to be removed from this scheme as she felt she was under constant official surveillance. The Special Rapporteurs expressed their concern that such attempts to intimidate Ms. Neelapaijit were a direct result of her efforts to seek justice over the disappearance of her husband in March 2004.

15. On 7 September 2005, the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government of Thailand regarding human rights defender **Wiwat Thamee**, coordinator of the Ethnic and Indigenous People's Network of Thailand. According to the information received, on 18 August 2005, at approximately 0.20 a.m., a grenade was thrown at Mr. Thamee's car, which was parked in Baan Pong Hai, at approximately 10 metres from Border Police Patrol Post No. 211. Although the Border Patrol Police came to the scene, they reportedly did not take any action. Allegedly,

despite a public radio intervention by the assistant to the village chief to call the local Royal Thai Police, no one came to the scene. The Border Patrol Police reportedly advised the witnesses not to file a complaint as it would not result in any action. Nevertheless, a complaint was lodged on 20 August 2005 at the district police station. Concern was expressed by the Special Rapporteurs that the attack against Mr. Thamee's vehicle constituted a direct attempt to intimidate him and his staff in order to prevent them from carrying out their human rights activities. Mr. Thamee had recently returned to Thailand from Geneva where he had presented a statement at a session of the Human Rights Committee. The Special Rapporteurs expressed their concern that the grenade might be connected to Mr. Thamee's reporting to the United Nations on the human rights situation of non-ethnic communities in Thailand.

16. **Tunisia.** On 25 July 2005, the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government of Tunisia regarding the situation of the Arab Institute for Human Rights. According to the information received, the Arab Institute for Human Rights had been unable to operate properly for the last 20 months. The Tunisian authorities reportedly froze the Institute's financial assets by means of an administrative decision issued in accordance with new anti-terrorist legislation to control transfers of financial assets. Reports allege that the Institute was notified orally of the decision and that it has not received any subsequent written confirmation. The frozen donations were grants from the European Union, the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund and the United Nations Educational, Scientific and Cultural Organization to support the Institute's activities for the promotion and protection of human rights. The Tunisian authorities reportedly explained that this decision was taken in response to the 10-year prison sentence against Khemais Ksila, Secretary-General for the League of Human Rights - for whom the Special Representative had sent a communication on 24 March 2005 - and who continued to be a member of the board of directors of the Arab Institute for Human Rights. The Special Representative expressed concern that the decision to freeze foreign funds was meant to jeopardize the independence of the Tunisian human rights organization.

17. In a response dated 25 August 2005, the Government of Tunisia responded to the above-mentioned communication. It informed the Special Representative that the situation of the board of directors is now straightened out and that the Arab Institute for Human Rights is now authorized to use its foreign funds. The Government noted that, since its creation in 1989, the Institute has always been able to function normally and in total independence. However, since Mr. Ksila was still a member of the board of directors despite his 10-year prison sentence pronounced in February 2002 and the subsequent deprivation of his civil and political rights, the Government repeatedly informed the Institute that the situation of the board of directors contravened the current Tunisian law on associations (No. 59-154 of 7 November 1959). The Government reminded the Institute that it is striving to encourage the activities of civil society organizations and to ensure the best working conditions for non-governmental organizations based in Tunisia, while making sure that such organizations respect the rule of law and current legislation.

18. On 18 November 2005, 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 a letter of allegation to the Government of Tunisia regarding incidents that took place around the United Nations

World Summit on the Information Society from 16 to 18 November 2005. According to the information received, on 14 November dozens of policemen in civilian clothes surrounded the Goethe-Institute in Tunis in order to forcibly prevent members of the national and international civil society from organizing a meeting parallel to the World Summit on the Information Society and from entering the premises of the German cultural centre. In particular, reports indicate that the security forces prevented Marianne Klaric and Jean-Jacques Mathi, both reporters from the national Belgian Television (RTBF), and the Tunisian human rights lawyer Radia Nasraoui from entering the premises by encircling their car. They reportedly slammed Ms. Nasraoui's vehicle and started insulting her. When the police realized that the two journalists were videotaping them, they reportedly confiscated the tapes that also contained other documentaries for RTBF.

19. **Uzbekistan.** On 27 October 2005, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on violence against women, its causes and consequences, and the Special Representative of the Secretary-General on the situation of human rights defenders sent a communication to the Government of Uzbekistan regarding **Mutabar Tadjibayeva**, head of Ut Yuraklar, an unregistered women's human rights organization, and a member of the Organisation for the Defence of Rights and Freedoms of Uzbek Journalists, as well as the Human Rights Society of Uzbekistan and the Committee for Freedom of Speech and Expression. According to the information received, on 7 October 2005, at approximately 11 a.m., Mutabar Tadjibayeva was arrested at her residence in the Ferghana Valley by a group of heavily-armed police and Special Forces officers. The arrest took place the day prior to her planned departure to Ireland where she was to attend an international conference on human rights defenders and meet with the Special Representative of the Secretary-General on the situation of human rights defenders. Ms. Tadjibayeva has reportedly been charged under article 165, part 2, paragraph b, of the Criminal Code of the Republic of Uzbekistan, which refers to extortion and carries a potential sentence of 10 to 15 years' imprisonment. The Special Rapporteurs expressed their concern that Mutabar Tadjibayeva's arrest and the subsequent charges against her are an attempt to discredit her and prevent her from carrying out her human rights activities, in particular at the international level. Further concerns were expressed that her arrest may be linked to her open criticism of the events that occurred in Andijan on 13 May 2005.

C. General issues of concern

20. The reported acts of reprisal range from harassment, intimidation, physical aggression, arbitrary arrests and refusal of travel documents, to death threats and killing. At best, the alleged victims have to endure harassment or intimidation or are 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 private individuals who have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights: in such cases individuals were reportedly intimidated before they could meet with United Nations representatives or travel to various United Nations human rights meetings to share information or provide testimony about alleged human rights violations. Victims also suffer violations of the most fundamental human rights, including the right to liberty and security of person, and, at worst, the right to life.

21. The alleged victims of these abuses are private individuals, journalists, 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 of family members of victims of human rights violations who have been the target of intimidation and reprisals.

II. CONCLUSION

22. 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 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, in cooperation with States, to continue to take urgent steps to help prevent the occurrence of such acts.
