

5 February 2021

Complaint of abuse of authority and unsatisfactory conduct against Ms Catherine Pollard, Under-Secretary-General, Department of Management Strategy, Policy and Compliance

Dear Secretary-General,

I am writing to request immediate investigation into further abuse of authority (ST/SGB/2019/8) and unsatisfactory conduct (ST/AI/2017/1) by Ms Catherine Pollard, Under-Secretary-General of the Department of Management Strategy, Policy and Compliance. This complaint supplements, and does not replace, my previous requests that Ms Pollard be investigated for unsatisfactory conduct, abuse of authority and retaliation against me as a recognised whistleblower, all of which you have simply ignored.

The abuses outlined in this complaint include deliberately misleading member states and the UN Tribunals, ignoring rules set by member states, interfering in the independence of UN oversight bodies, and failure to apply whistleblower protection policies. In light of her escalating retaliation against me as a recognised whistleblower, I believe it would be appropriate for Ms Pollard to be placed on leave for the duration of investigation to prevent both retaliation and the destruction of evidence.

You are a witness and possibly accomplice of the abuses detailed in the present complaint. The UN Ethics Office has already recognised the conflict of interest of OIOS in conducting any investigation in my case, and one ground of complaint is that Ms Pollard illegally interfered in the independence of OIOS to ensure that the General Assembly would not receive accurate information about implementation of whistleblower protection policies. The conflict of interest of both you and OIOS clearly require that this complaint be referred externally.

I attach the detailed complaint and annexes, and remain available to provide further evidence. All of these abuses have occurred as part of a concerted cover-up of the policy of the UN Human Rights Office to provide the Chinese delegation with advance information on persons who intend to engage with UN human rights mechanisms, against the rules set by member states. This exposes their families to human rights violations which have included arbitrary arrest, arbitrary detention, forced labour, torture, sexual assault, rape and death in concentration camps. Since February 2013, I have asked first your predecessor and then you to order an independent, external investigation of this exceptional and dangerous policy.

Ms Pollard has led the retaliation against me since at least October 2019. I request that you comply with the recommendations of successive Ethics Officers to protect me against further retaliation. As an initial step, I should be immediately transferred to a mutually agreeable post that appears on a workplan and has terms of reference. I believe it is in the interests of all that such transfer be outside OHCHR, so that there is no ultimate reporting line to retaliators.

As I anticipate that this report will be met with the usual silence, I consider section 4 of ST/SGB/2017/1/Rev.2 to apply, and will be transmitting it to member states.

I look forward to hearing from you.

Sincerely,



Emma Reilly



Abuse of authority and unsatisfactory conduct by Ms Catherine Pollard

A. Cover-up of UN complicity in international crimes and acceptance of instructions from a national government (China)

1. On 30 September 2019, I submitted a complaint of unsatisfactory conduct and abuse of authority against Mr. Eric Tistounet to the High Commissioner for Human Rights, as the responsible official under ST/AI/2017/1 (Annex 1). The vast majority of my complaint was devoted to the illegality of a policy of providing the Chinese government advance information on which human rights activists planned to engage with UN human rights mechanisms, laying out in detail how this constitutes criminal complicity in international crimes including arbitrary detention, forced labour, torture and possibly even genocide. The complaint further detailed the rules of the Human Rights Council and internal UN rules broken by the policy.
2. For reasons unknown, Ms Bachelet as the sole responsible official under ST/AI/2017/1 did not address my complaint. Instead, it was passed to Ms Pollard, who explicitly limited the terms of the investigation, which the investigators described as follows:

“Ms. Pollard clarified that the current fact-finding investigation with which we are charged will not deal with your allegation, initially made in February 2013 and then reiterated more recently, concerning the provision of confidential information to the Chinese delegation. It was decided by Ms. Pollard, and included in our terms of reference, that our investigation should have a more limited scope and cover your complaints about harassment and abuse of authority...” (Annex 2).
3. Ms Pollard is the senior official responsible for ensuring accountability in the UN system, yet she utterly failed to act on a serious report of criminal, life-endangering misconduct, which included witness testimony from persons whose names were secretly passed by the UN Secretariat to the Chinese government as to the danger and impact on their family members, including arrest, torture and death in concentration camps.
4. Actively participating in a cover-up of a breach of the rules set by Member States of the Human Rights Council for the explicit and unambiguous purpose of pleasing the Chinese government¹ is not compliant with Ms Pollard’s obligation under Article 100(1) of the UN Charter to “refrain from any action which might reflect on [her] position as [an] international official[...] responsible only to the Organization.”
5. I note the failure by OIOS to investigate my reports of this dangerous and exceptional policy since I first reported it to OIOS on 1 February 2013, apparently based on utterly irrelevant and frankly offensive speculation that an investigation of UN complicity in international crimes, in compliance with UN rules requiring such investigation and with the purpose of preventing violations of human rights, would not provide me a personal sense of “satisfaction, solution or succour.”² I have a duty as a UN staff member to report serious, life-endangering misconduct by other UN staff members. I did do as part of my professional and ethical obligations, including the obligation to act with integrity, and not for a sense of personal satisfaction. This failure to investigate, and apparent bias against me, contributes to the conflict of interest of OIOS in assessing the present report of unsatisfactory conduct, which should be referred externally.

B. Failure to properly comply with UNDT judgement

6. Three of my court cases were heard in May-June 2019 by the independent Judge Rowan Downing (Australia). He ruled on only one of these cases prior to the Director of the Office of Administration of Justice engineering his removal without notice, which removal appears

¹ This was detailed in annex 3 of the complaint against Mr. Tistounet, in which he stated that the purpose of providing the information to the Chinese delegation, despite it being refused to all other delegations, was to avoid anything that may “exacerbate the Chinese mistrust against us.”

² Email from Ben Swanson, Director of Investigations, to Emma Reilly, 9 October 2019.

to have been designed to prevent him ruling on my two other cases.³ In his ruling, which was not appealed, the UNDT found that you, Mr. Secretary-General, had unilaterally decided to deviate from the applicable rules in failing to come to a decision on whether or not to investigate my complaint of abuse of authority relating to a false and defamatory press release issued by OHCHR on 2 February 2017. The deferment of treatment my complaint was found to have the appearance of an ex post facto justification for delay. The Administration was ordered to make a decision whether or not to investigate the complaint within 30 calendar days of the judgment, which was rendered on 24 May 2019.⁴

7. On 22 June 2019, I was informed by the ASG for human resources that a panel would be convened to investigate the complaint. Thereafter I engaged in communication with the ASG, copying Ms Pollard, regarding further delay in the investigation proceeding. Only on 22 November 2019 was I informed that Ms Pollard had, six months after the judgement, finally appointed panel members. She thus deliberately left me exposed to a further six months of ongoing defamation despite a judgement that the Administration's failure to act promptly on my complaint was illegal under UN rules. She provided no justification for this delay, which is consistent with neither the letter nor the spirit of the judgement.
8. Instead of conducting a genuine investigation, as ordered by the Tribunal, Ms Pollard structured the work of the panel in a manner that demonstrates that its conclusions were pre-determined. Significantly, the panel's email of 2 December 2019 states:

"As there will be two "subjects of investigation" (Messrs. Al Hussein and Tistounet), our findings and conclusions will deal with each of these two separately, but in one report."⁵
9. I am unclear why the description of the two individuals as subjects was requiring of inverted commas. It perhaps indicates that the panel had received instructions from Ms Pollard that I was to be the true subject of investigation (see section C, below). However, the predetermination that a single report could dispose of findings and conclusions for both Mr. al Hussein and Mr. Tistounet is instructive. Where a report results in a negative finding and disciplinary action, it is disclosed to the subject as part of their due process rights. A single report concerning both subjects would have to be provided to each. This would clearly breach the confidentiality of each in relation to the other.
10. The only way that a decision could be taken at the outset of investigation that the findings and conclusions of the investigation could be contained in a single report would be if the decision-maker, in this case Ms Pollard, had already taken a final decision that the report would contain no negative findings against the subjects, meaning that it would not be disclosed to either subject. The decision to address findings and conclusions in a single report thus demonstrates that Ms Pollard had decided prior to the fact-finding investigation that no negative conclusions were to be reached.
11. The purpose of oversight of the UN Administration by independent Tribunals is to ensure application of UN rules. Presumably Ms Pollard was informed that there was no legal basis to appeal judgement UNDT/GVA/2019/094. She therefore simply decided not to apply it, despite her position as the most senior official responsible for ensuring compliance with UN policies.
12. The response of the Administration to the judgement was to rewrite the policy on abuse of authority and harassment, apparently to prevent any future possibility of accountability of senior managers. While under previous policy ST/SGB/2008/5, the Administration was required to investigate complaints made in good faith where there were sufficient grounds to warrant investigation, which the Tribunals had confirmed as an objective test, the new policy ST/SGB/2019/8 introduced discretion, removing a duty to investigate where

³ See section E, below.

⁴ UNDT/2019/094 (Reilly), at paras. 50, 56, 60.

⁵ Annex 2.

disciplinary sanctions would be unlikely even if wrongdoing were confirmed.⁶ The Administration very, very rarely implements disciplinary sanctions (except against whistleblowers), and thus now has unfettered discretion to ignore any and all wrongdoing where a cover-up is preferred. Furthermore, this unfettered discretion reduces protection for victims of abuse of authority, which cannot be accessed without investigation. Given her involvement in my case, which led to the rewriting of the policy, I suggest that the investigation examine the decision-making by Ms Pollard in this deliberate reduction of accountability for senior UN staff who commit wrongdoing, which goes contrary to the expressed concerns of the General Assembly and other legislative bodies.

C. Abuse of an investigation for purposes of retaliation against a whistleblower

13. On 4 December 2019, I was interviewed by the panel. Despite the primary object of investigation supposedly being a press release issued on 2 February 2017, the panel devoted the majority of its time and questions to my contacts with the press in late 2019, repeatedly accusing me without evidence of actively contacting the press despite my numerous corrections of this factual error. The panel further indicated it would not interview Ms. Pollard as a witness of the retaliation by Mr. al Hussein specifically because it reported directly to her. I can provide a recording of the interview, and further objected to the illegitimate focus of the panel in my follow-up email (Annex 3).
14. It is extraordinary that a panel appointed to investigate a press release issued in 2017 would use an interview under oath to focus so single-mindedly on events that occurred two years later, which could have no relevance whatsoever to the formally mandated investigation. There would not appear to be any personal motivation on their part to justify such focus.
15. The purpose to which the information obtained from interviewing me under oath was later put strongly indicates that the panel was acting under the instructions of Ms Pollard, who appears on the basis of available evidence to have deliberately failed to execute the judgement of the UNDT, instead actively abusing her authority to subvert the investigation for the illegitimate purposes of investigating and retaliating against me.
16. On 11 June 2020, Ms Pollard communicated her summary of the “findings” of the panel. These included conclusions regarding the policy itself, which I had been expressly informed was not a subject of investigation. The findings that OHCHR had never denied the policy were very simply contradicted by publicly available videos showing Mr. Tistounet and Mr. Rolando Gomez, an OHCHR spokesperson under the direct supervision of Mr. Tistounet, openly and unambiguously lying, expressly denying that OHCHR had ever, at any time, handed names of any human rights activists to the Chinese delegation, which I sent on the same date (Annex 4).⁷ Ms Pollard took no action to correct the blatant errors or re-examine the predetermined conclusions of the panel upon receipt of evidence definitively disproving the alleged findings.
17. One week later, on 18 June 2020, I was required to attend a meeting with the Deputy High Commissioner for Human Rights via skype, at which I and a witness took verbatim notes. The findings of the Panel were used to attempt to intimidate me, threatening unspecified consequences should I continue to make external reports regarding the practice of providing names to the Chinese Government (Annex 5). The Deputy High Commissioner repeatedly stated that she had no knowledge of the events, and indicated that she did not

⁶ ST/SGB/2008/5, para. 5.14. This test was replaced by that in ST/SGB/2019/8, section 5.5, which integrates ST/AI/2017/1 sections 5-12, including notably “[w]hether there is a likelihood that an investigation would reveal sufficient evidence to further pursue the matter as a disciplinary case” (para. 5.5(c)). The Administration has interpreted this to mean that, because disciplinary cases are never pursued where they may cause embarrassment to senior managers, investigation of senior managers is never required.

⁷ Videos available online:

- Mr. Tistounet denying the policy and saying any such suggestion was a right-wing conspiracy against the UN: www.youtube.com/watch?v=ZmxNji05ZJg, from 39 minutes.
- Mr. Gomez denying the policy and saying the UN Human Rights Office would “never, ever dream” of transmitting names due to the clear danger: www.foxnews.com/world/un-human-rights-office-china-dissidents

- care about the truth, but was merely transmitting instructions of Ms. Pollard and the High Commissioner.
18. On 29 July 2020 I emailed Ms. Pollard attaching a paragraph-by-paragraph summary of factual errors in her letter dated 10 June 2020 (Annex 6). Once again, she took no action to establish the actual facts, and continued to rely on alleged findings she definitively knew to be incorrect in order to avoid any possibility of accountability for retaliation against me. This is not consistent with Ms Pollard's commitment in her 2020 compact with the Secretary-General that she "will do everything possible to create an environment where staff feel safe to report suspected misconduct, and... will protect from retaliation any staff who reports misconduct or who cooperates with duly authorized audits or investigations."
 19. The panel members have refused to confirm whether they in fact investigated this policy, contrary to their written statement that they did not. An investigation should therefore establish whether the panel deliberately misled me about its mandate, or Ms Pollard deliberately misled me about the panel's findings in her summary.

D. Misrepresentation of UN rules and non-application of rules set by Member States

20. In addition to subverting the purpose of the investigation supposedly into retaliation against me, abusing the opportunity to gather evidence for her subsequent threats, Ms Pollard initially contributed to and, since October 2019, apparently leads, retaliation against me.
21. In her summary of the panel's findings, Ms Pollard stated:

"I note that in your interview with the Panel, you revealed that on a number of occasions you shared the matters that are the subject of your complaints, verbally and in writing, with external parties, including Member States and the press. Further, I note that the Panel observed that you have not been given whistleblower status by the Ethics Office.

As a staff member, you are bound by your obligations as an international civil servant as set out in the Staff Regulations and Rules, including Staff Regulation 1.2(i) and Staff Rule 1.2(t). Accordingly, you are not authorized to engage with Member States or contact the media concerning these issues."
22. Ms Pollard deliberately misrepresented UN rules in an effort to intimidate me into silence as part of an ongoing cover-up of UN complicity in international crimes. UN staff members have a positive obligation to report apparent misconduct. A policy that is criminal under international law, as well as being a breach of the UN Charter article 100(1) and UN staff rules and regulations, is clearly capable of constituting misconduct under UN rules.
23. Ms Pollard was by this point fully aware of the bases on which I had been refused whistleblower protection by successive Ethics Officers. The full reports were included in court case UNDT/GVA/2018/099 and formed the basis of legal arguments made by persons ultimately reporting to Ms Pollard.
24. The first basis for refusal of protection, taken by the UN and UNFPA Ethics Officers, is that *because* senior managers, including Ms Pollard herself, had failed to act, the reports were somehow incapable of amounting to misconduct. This reasoning would render the written rules of the UN meaningless. Essentially, according to these Ethics Officers, the UN operates as an autocracy in which whatever senior managers say or do automatically becomes UN policy, however far removed from the founding principles of the UN, the UN Charter, or legislation adopted by the General Assembly and other intergovernmental bodies. Indeed, the Director of the UN Ethics Office explicitly informed me, in a conversation that I recorded, that deliberate breach by a UN staff member of rules set by intergovernmental bodies for their own Secretariats is incapable of constituting misconduct by UN staff members of those Secretariats.⁸

⁸ Noting that I was claiming a deliberate breach of rules set by Member States was capable of creating a reasonable belief that misconduct may have occurred, the Director of the Ethics Office stated: "what you're arguing is it's the rules that the Member States *have set up by themselves*, and so sometimes there's a fine line between operational rules and Staff Rules, and in, in whistleblowing policies everywhere, one makes a difference, a differentiation on these things" (emphasis added). The Organisation thus takes the position that staff may individually decide to simply ignore legislation set by Member States, contrary to the established hierarchy of rules under international law.

25. The second basis for refusal of protection, taken by the Unicef Ethics Officer, took this reasoning to its logical conclusion, and found that I could not reasonably believe, as a UN Human Rights Officer, that fundamental human rights principles such as “do no harm” and confidentiality, or the foundational UN principle of independence of the international civil service could, under any circumstances whatsoever, take precedence over the mere possibility of a better political relationship between managers of the UN Human Rights Office and the Chinese government. By formally approving of this reasoning as the basis of denial of whistleblower protection, Ms Pollard effectively states that the very rules she is mandated to enforce as the senior official responsible for compliance are meaningless in the face of a powerful delegation asking for a staff member to do them a “favour.” This is at minimum in breach of Ms Pollard’s obligation to act with integrity. Integrity requires basic respect for the rules and foundational principles of the Organisation.
26. Furthermore, Ms Pollard declined to issue any public correction to the public statement of her predecessor that the UN does not prevent staff from speaking to the press. Instead, she sought to simply to deform reality, claiming that the word “staff” should be interpreted to mean “recognised whistleblower.” Ms Pollard has not provided any dictionary definition of the word “staff,” or interpretation of the word “staff” in a UN policy, that would support her contention. Furthermore, during their interview with me, the panel she appointed expressly stated that the letter of Ms Beagle was unambiguous that all staff have the right to speak to the press.⁹
27. Where the UN management fails to act on a report of misconduct, as it has failed to act on my reports since February 2013, section 4 of ST/SGB/2017/2/Rev.1 expressly provides that staff members may make external reports of misconduct. There is no prior requirement that the staff member expressly seek authorisation from the very management that has failed to act. Indeed, the reasons listed as justifying external reports include risks of further retaliation or destruction of evidence by management (both of which apply here). Particularly in the case of an ongoing, life-endangering policy that breaches international law, I had a clear legal, professional, moral and ethical obligation to make an external report where management simply lied and acted to cover up the policy.
28. As the UN official with primary responsibility for enforcing UN rules and regulations, Ms Pollard should be familiar with their content. Her deliberate misrepresentation of staff rules 1.2(i) and 1.2(t) can therefore only be a deliberate effort at illegal intimidation of a staff member in order to cover up a policy that Ms Pollard is fully aware breaches UN rules.

E. Failure to act on interference in the independence of the judiciary, deliberate financial waste, and creation of a class of UN staff exempt from UN rules

29. My cases were heard by Judge Downing in early June 2019. Judge Downing disagreed with the position of the Administration that, no matter how clearly wrong or egregious, no decision taken by any Ethics Officer can ever be reviewed by a court. In order to assess the reasonableness of the findings of the successive Ethics Officers that breaching rules set by member states can never constitute misconduct in the UN, Judge Downing heard considerable evidence about the UN Human Rights Office policy of providing names of human rights defenders to the Chinese government.
30. Judge Downing noted from the bench that it was “extraordinary” for the Administration to claim that UN staff members can individually decide whether or not to apply rules set by member states. He expanded upon this reasoning:
 “If we look at the United Nations... as an Organisation, we have a member state that asks, I think in this case it was a ‘favour,’ wants to know the names. And we have bureaucrats within the Organisation, that is... international civil servants, who are making a decision in respect of the provision of information to a member state, or not. I’m just wondering where the international civil servants get the right to say yay or nay, and whether it isn’t a matter for decision at the level of member states. Because you’re

⁹ Audio recording available on request. The letter of Ms Beagle to The Guardian newspaper is available here: <https://www.theguardian.com/world/2018/jan/21/un-is-dealing-with-sexual-harassment>

allowing international civil servants, you're empowering them, with making decisions ... rather than saying to the member states 'Look, it's a matter for you, it's not a matter for us.' How is it that it becomes a matter for the international civil servants, and not for the member states themselves? Because the international civil servants, do they not do as they are told and directed by the member states? And if there is no direction, are they not in a position where they should go and seek the direction of the member states?... How do they get to act without such?"¹⁰

31. The Administration argued in court that the list of persons applying for accreditation to the UN Human Rights Council is somehow a public document weeks in advance of sessions of the Council, despite never being published anywhere. The Administration therefore claimed that, despite the written rule that such requests should be addressed to the plenary or expanded Bureau of the Council, the Secretariat is obliged to respond *sua sponte* to any and all requests for information as to whether specific individuals apply for accreditation.
32. This position is clearly inconsistent with the public position of the Organisation, which has varied among outright denial that the Secretariat would ever knowingly expose human rights defenders to danger in such a manner, admission that it occurs with false claims of protective measures, and - after the 2017 admission that the practice was ongoing was subject to criticism - new claims that it stopped in 2015. The judgement of Judge Downing was likely to reveal the legal position of the Administration that this is an ongoing policy, without protective measures, and therefore to be a source of some public embarrassment for the Administration.
33. In late June, the Administration decided to bring forward election of judges to the UN Dispute Tribunal, which elections had always previously been held in December. Elections were scheduled for 10 July 2019, one month after my cases were closed for deliberation, and two months before the deadline for judgement. The Administration, in the person of the Executive Director of the Office of Administration of Justice, deliberately misled the General Assembly, claiming that the elections would be cost-neutral. She further claimed to individual diplomats that the two *ad litem* judges of the UN Dispute Tribunal (Judge Downing and Judge Izuako) would remain in post until 31 July 2019, and that they had been informed of the imminent expiry of their mandates.¹¹
34. Despite these assurances of the Administration, on 10 July 2019, Judge Downing was informed by the Geneva Registrar that, as a result of the sudden election, he was now *functus officio*, and should cease his deliberations in my case.
35. There is no sound management reason for the removal of a judge without any notice whatsoever, with associated expensive reassignment of all of his cases to a new judge, who must duplicate work already undertaken. This is clearly not cost neutral, as claimed by the Executive Director of OAJ. Neither is it compatible with the most basic principles of due process and independence of the judiciary. While the Administration has declined to investigate the failure to provide notice on the basis that "there does not appear to exist any affirmative obligation on the part of the Assistant Secretary-General for Human Resources Management specifically or the Administration generally to provide such notice,"¹² a failure by a party to a case to inform a judge of the date of the end of his contract can only have been calculated to ensure he could not issue judgement.
36. You, Mr. Secretary-General, failed to respond to my requests, both in writing and, in February 2020, in person, that you recommend to the General Assembly temporary reinstatement of Judge Downing for the purposes of issuing judgement in cases he had already heard rather than allowing this most serious breach of the independence of the

¹⁰ Hearing of 12 June 2019, from 01:05:49. In the intimidation attempt of Ms al Nashif of 18 June 2020, at which she read from a script she said was prepared by Ms Pollard and Ms Bachelet, Ms al Nashif presented the Administration's position that whether or not to provide names to the Chinese government in advance remains a matter entirely within the individual discretion of Mr. Tistoune as Chief of the Human Rights Council Branch.

¹¹ [REDACTED]

¹² Letter from Mr. Andreas Rückriegel on behalf of the Secretary-General to Emma Reilly of 13 July 2020, declining to investigate a complaint of abuse of authority submitted to the Secretary-General on 29 September 2019.

- judiciary and associated financial waste. On 4 March 2020, I therefore filed a complaint of abuse of authority against the Executive Director of the Office of Administration of Justice and the Principal Registrar, *inter alia*, for deliberately misleading the General Assembly (Annex 7).
37. Consideration of the complaint was apparently delegated to Ms Pollard, who communicated that no investigation would take place on 14 July 2020. Ms Pollard apparently relied on the reasoning of OIOS that UN staff working in the Office of Administration of Justice are somehow exempt from the UN misconduct framework, and thus that none of their actions, however egregious, can ever be examined by any oversight body. Ms Pollard has declined to respond to my queries as to the legal basis for such a determination, and whether this would apply to all possible misconduct, including, for example, sexual exploitation, abuse or harassment.
 38. Judge Downing concurs that his removal constituted deliberate removal of a sitting judge by a party to the case, the most serious possible interference in the independence of the judiciary. He has agreed to provide witness testimony on this issue, but to date Judge Bravo, to whom my cases were reassigned, and who Judge Downing will give evidence was likely complicit in his removal due to undue influence on her by the Administration, has declined to hear the evidence.
 39. As was presumably the intention of the Administration as the opposing party in the case, the case in which Judge Downing had heard evidence on the UN Human Rights Office policy of providing names of human rights defenders to the Chinese government is now indefinitely suspended, some 20 months after closing arguments were heard. This case concerns ongoing defamation in an OHCHR press release issued more than four years ago, on 2 February 2017, that your own lawyers admitted in court is false. It is obvious that justice delayed is justice denied.
 40. Once again, as the official responsible for ensuring compliance with UN rules, Ms Pollard has failed to act on an exceptionally serious breach of those rules and the UN Basic Principles on Independence of the Judiciary for the purpose of covering up a policy that breaches international law, rules set by member states and, contrary to the apparent position of the Ethics Office, UN staff rules. She has unilaterally created a class of UN staff who have contracts with the UN but yet are not subject to UN rules. There seems to be no legal instrument that would give Ms Pollard such authority.

F. Direct interference in the independence of OIOS for the purpose of withholding information from the General Assembly and avoiding reform of oversight of the UN

41. The General Assembly mandated an audit of accountability mechanisms within the UN, which audit was carried out by OIOS. I was contacted by the auditors and interviewed on 27 July 2020. I recorded the interview with the knowledge and written permission of the auditors. Following the interview, the auditors indicated that my case would be used as the primary example of the systemic failure of the policy on protection against retaliation.
42. During the interview, I had referred the auditors to the public reference in judgment UNDT/2020/097 to your instructions, Mr. Secretary-General, in my case. The Administration argued the UN Human Rights Office had no obligation to implement your instructions that I be transferred, and my case mediated. Due to the manner of release of the document, which the Administration had actively sought to conceal from the Tribunal, I was unable to provide details other than those in the public domain. The auditors indicated that it would be helpful to see your written instructions of 2 April 2018 to the former High Commissioner, as well as his response, which UN lawyers admitted before the Tribunal was false and misleading.
43. Due to a tight deadline for the audit, I therefore sought leave directly from you, Mr. Secretary-General on the same date to transmit your letter to the auditors, whose review you had ordered. Unfortunately, despite me explicitly warning you that I feared retaliation should my cooperation with the audit become more widely known, you apparently transmitted the request directly to Ms. Pollard for her action. It was Ms Pollard who contacted me to say that the auditors could request the information from her.

44. Upon receipt of the request, Ms. Pollard knowingly and deliberately breached the confidentiality of the audit by directly informing OHCHR that the auditors had interviewed me. This led to OHCHR senior management breaching the independence of OIOS to demand that the internal auditors not include my case. OIOS senior managers complied with this extraordinary request, and instructed the auditors that their review of the UN's whistleblower policy should not include any interviews with whistleblowers.¹³
45. Ms Pollard is presumably aware that the panel that conducted the independent review on sexual exploitation and abuse by international peacekeeping forces in the Central African Republic severely criticised the efforts of the former High Commissioner for Human Rights interfering in the independence of OIOS to request immediate investigation of a previous OHCHR whistleblower, Mr. Anders Kompass.¹⁴ The Panel ultimately determined that the High Commissioner did not commit abuse of authority on the unique basis that the Under-Secretary-General of OIOS was a senior manager and so should be presumed to have carried out her role with independence.
46. Such reasoning does not apply in this case, where it is incontrovertible that the pressure exerted by OHCHR following information received from Ms Pollard in fact directly led to a change in the approach of the allegedly independent audit. This ensured that the General Assembly was deprived of complete and accurate information on the policy on protection against retaliation, and thus that any pressure for reform to make it fit for purpose would be limited.
47. Given the previous efforts of OHCHR managers to illegitimately interfere in the independence of OIOS for the purposes of retaliation against a whistleblower, it was or should have been reasonably obvious to Ms Pollard that OHCHR would seek to prevent any reference to my case. She was at minimum reckless and perhaps even complicit in these efforts to ensure the General Assembly was misled.
48. In addition to the above, Ms Pollard attempted to intimidate me into not reporting to member states that the Director of Investigations of OIOS had been caught on tape admitting to collusion among OIOS, the Ethics Office and the Administrative Law Section, which ultimately reports to Ms Pollard, not to apply the policy on protection against retaliation, but rather to merely ask retaliators whether they are guilty, accept them at their word, and thus deprive whistleblowers of any protection whatsoever (Annex 8). Ms Pollard once again demonstrated that, rather than fulfilling her duty to apply UN rules, she prefers to cover up wrongdoing by senior officials of the Organisation, and avoid any demands for accountability from member states.

G. Failure to implement direct instructions of the Secretary-General, and deliberate misrepresentation of delegation of authority

49. Despite finding that it is unreasonable for a UN staff member to believe that fundamental principles such as “do no harm,” confidentiality or the independence of the international civil service could take priority over possible gratitude of the Chinese government for a “favour” rendered by the Secretariat against the rules set by the Human Rights Council, the Unicef Ethics Officer nonetheless made recommendations for my protection, which were transmitted to you, Mr. Secretary-General, on 2 March 2018. These recommendations included, notably, transfer with my consent within or outside OHCHR and mediation.
50. On 2 April 2018, you wrote to the former High Commissioner, informing him that you had delegated authority to the then Under-Secretary-General for management and Assistant-Secretary-General for human resources to transfer me to a mutually agreeable post,

¹³ Contemporaneous, written communications with auditors confirming these events will be made available to independent investigators. I am concerned that the auditors who informed me of the extraordinary sequence of events, due to shock at the lengths to which the Administration will go to cover up its own policy of transmitting names to the Chinese delegation, will be identified and face retaliation by senior managers who may become aware of the present complaint.

¹⁴ *Report of an independent review on sexual exploitation and abuse by international peacekeeping forces in the Central African Republic: “Taking action on sexual exploitation and abuse by peacekeepers,” A/71/99, paras. 180-190.*

- instructing him to mediate my case, and informing him that you would send an observer to participate in the mediation at the appropriate level.
51. On 30 April 2018, you received a response from the High Commissioner. Your lawyers before the Tribunal admitted that this response was false. It incorrectly stated that I had refused a transfer and refused mediation, when in fact neither had been offered.¹⁵ Judge Downing noted from the bench that the High Commissioner's letter, in addition to being false "seems to me to put a spin on what has occurred such that the Applicant is being portrayed as an unreasonable person, and that concerns me... it goes much further than it should have."¹⁶ He further noted that your instructions, as the Chief Administrative Officer of the Organisation, were simply not followed.
 52. Ms Pollard is fully aware of these instructions, and of the fact that they have not been followed. She has nonetheless, as the responsible official to whom authority passed upon her appointment, failed to take any steps whatsoever to follow your written instructions.
 53. The position of the Administration before the Tribunal in case UNDT/GVA/2018/099, which was heard on 3-4 June 2019, was that your instructions continue to apply, and thus that Ms Pollard, along with the ASG for human resources, holds placement authority in my case. Indeed, the Administration's witness, the Chief of Human Resources of OHCHR, expressly stated that I would be consulted on appropriate posts during summer 2019, and would, with the involvement of the ASG for human resources, take up a lateral transfer of my choice among those available, beginning in October 2019. This did not happen, and I was instead forcibly transferred to a non-existent post with reporting lines but no functions or workplan.
 54. The Administration's position before the Tribunal is directly contradicted by the Administration's position in its refusal to investigate the ASG for human resources for abuse of authority. In that decision, Mr. Rückriegel communicated that the placement authority had lapsed in January 2019, six months before the hearings.
 55. The judgement of the UNDT in case UNDT/GVA/2018/099 was based on a false assertion that the Administration was in the process of complying with your instructions. I have repeatedly requested that Ms Pollard correct this and other errors of fact in the UN's legal position. It is a serious matter for the UN Administration to deliberately mislead and conceal evidence from the Tribunal, and indeed Judge Downing commented on this in several legal orders, which the Registry elected not to publish online. Despite this, Ms Pollard has declined to respond as to which of the two directly contradictory claims is true, and has declined to correct this and other objectively false information submitted to the Tribunal by persons ultimately reporting to her.

H. Direct retaliation against a whistleblower

56. On several occasions, Ms Pollard has abused her authority to directly retaliate against me.
57. As outlined in sections C and D above, in June 2020, Ms Pollard abused her authority by directly threatening me with disciplinary measures should I continue to blow the whistle on the UN Human Rights Office's policy of secretly providing China with advance information on who plans to engage with human rights mechanisms, exposing the human rights defenders and their families to danger and the risk of human rights violations. The UN Administration admits in court that this policy continues. Indeed, the Administration's entire legal position before the Tribunals would be untenable if there were any suggestion it had stopped, as there has been no change to the status of accreditation lists.
58. On 18 June 2020, on the instructions of Ms Pollard and Ms Bachelet, the Deputy High Commissioner for Human Rights, Ms Nada al Nashif, called me to directly threaten me to stop reporting this policy. She informed me that the script from which she was obviously

¹⁵ It is of note that, in a written communication of 30 August 2019, an unnamed OHCHR official in fact complained to the Dutch government that I continued to seek mediation. I am exercising my rights under Dutch law to try to identify the individual, given that UN rules require that complaints of abuse of authority be against identified individuals, and I have no access to genuinely independent employment tribunals where the UN Administration cannot control which judges hear my cases, or other means to enforce my rights as a UN staff member.

¹⁶ Hearings of 4 June 2019, at 03:30:00.

reading had been prepared by Ms Pollard and Ms Bachelet. Once again, in this script, Ms Pollard reiterated the position of the UN Administration that the decision of whether to provide names to the Chinese delegation lies entirely with the Secretariat, despite the rules set by member states. I and my witness took verbatim notes (Annex 5), which include the following:

“... at all times, the decision as to whether or not to confirm names of well-known activists shortly before the Human Rights Council sessions was and would remain a matter within the discretion of the Human Rights Council Branch of OHCHR.”

59. I did offer to correct the falsehoods in Ms al Nashif's statement, which would have included correction of the lie that the activists were all “well known,” given that the list in fact included students and interns. I have already provided you, Mr. Secretary-General, with the name of one [REDACTED] on the Chinese delegation's list who subsequently returned to China and died in a concentration camp. However, Ms al Nashif indicated that she was utterly indifferent as to the truth of what she was saying, or the danger in which the policy placed individuals, and was merely delivering a message from Ms Pollard and Ms Bachelet, which she wished to read in full without either interruption or the inconvenience of reality.
60. According to the Administration's own legal filings, Ms Pollard was involved in the decision to forcibly transfer me, in October 2019, to a post without terms of reference or functions. It was suggested to me that this was necessary for the “protection” of Mr. Tistounet, a Director, from me, a junior staff member who had by then been marginalised and ostracised for seven years for reporting his misconduct. No effort whatsoever was made to consult me or to transfer me to a post with a link to my expertise and experience, despite me having more than 60 open applications at the relevant time, and despite the sworn testimony of the Chief of Human Resources that this would be done.
61. In my current post, which has reporting lines but no terms of reference, my supervisors simply ask other staff in their teams which mandated tasks they do not want to do, and those are assigned to me on an entirely ad-hoc basis. I have no portfolio, and the intention is very obviously one of constructive dismissal. In a report dated 27 July 2020, this transfer to a non-existent post was found to constitute *prima facie* retaliation by the Alternate Chair of the Ethics Panel of the United Nations.
62. The Alternate Chair issued recommendations for my protection. Unfortunately, despite public rhetoric about whistleblower protection, the Administration simply declined to implement the recommendations, without providing any reason. Despite even the UN Ethics Office recognising that OIOS has a conflict of interest in investigating retaliation against me, the Administration decided that the matter should be referred to OIOS regardless of the conflict. It is not at all clear that the Administration itself, as the accused party, has the power to unilaterally ignore a recognised conflict of interest under ST/SGB/2017/2/Rev.1. The Administration declined to explain the legal basis for this decision.
63. All of my emails enquiring as to progress in the investigation, which the Alternate Chair expressly stated should take no more than 120 days in light of the now eight years of retaliation I have suffered, have been simply ignored. No investigators have contacted me or interviewed me, and I have no basis to conclude that the Administration is in fact investigating the retaliation against me.
64. Despite the Alternate Chair also recognising a conflict of interest on the part of the Ethics Office, the Ethics Office assigned itself the role of making recommendations on interim protective measures. The Ethics Officer declined to interview the witnesses I proposed, but instead himself proposed two witnesses working under the ultimate supervision of Ms Pollard. These witnesses simply assured the Ethics Officer that I have terms of reference, supplying a job description that describes supporting a Special Procedures mandate holder. I pointed out that I am not even in the department responsible for supporting Special Procedures, but the Ethics Officer and Director of the Ethics Office have simply declined to respond to any of my follow-up emails. Ms Pollard has similarly declined to respond to my emails requesting simply that she instruct her staff to be truthful. This is a clear breach of her obligation to act with integrity.
65. I have requested management evaluation of a number administrative decisions made by or with the direct involvement of Ms Pollard. Apparently at her direction, the Management

- Evaluation Unit (MEU), which reports directly to her, has ceased to fulfil its mandated function in regard to my complaints. Instead of evaluating the compliance of the decision with UN rules and policies, or addressing any of my detailed arguments, the MEU now simply sends me a form letter telling me to pursue court action. This is clearly not compliant with the functions of MEU mandated by the General Assembly in resolution 62/228. Ms Pollard is deliberately denying me my right as a staff member to management evaluation in order to avoid accountability for her own conduct, and knowingly wasting significant funds on litigation that could be easily avoided simply by applying UN rules in my case.
66. I noted in an email of 10 December 2020 asking for a progress update that the main retaliator since October 2019 has been Ms Pollard. I copied the email to Ms Pollard (Annex 9), who was thus aware that she was or, perhaps more accurately, should be a subject of a supposedly ongoing, legally mandated investigation into the retaliation against me.
67. On 8 January 2021, I was informed by an email to my personal, and not my professional, email address, that I had been placed under investigation for reporting the OHCHR policy to member states and, when that failed to have an impact, likely due to the repeated lies told to member states by OHCHR senior managers, to the press. Subsequent communications revealed that, despite no policy giving her any authority to do so, it was Ms Pollard who had initiated the investigation. I detailed the rules and policies breached by this decision in my letter, copied to you, of 12 January 2021 (Annex 10), and in follow-up emails (Annex 11). Predictably, OIOS declined to investigate this obvious act of retaliation, which is concerning considering that, if there is any pretence of application of the policy on protection against retaliation, OIOS is supposed to already have an open investigation into Ms Pollard's retaliation against me, into which this should clearly be integrated.
68. I will not repeat the details of why Ms Pollard's actions clearly breached her authority, which are laid out in the annexes, but will provide further grounds of illegality here.
69. Ms Pollard has authorised disbursement of significant funds to hire an external consultant, Mr. ██████████ to lead the investigation into me. It is of note that, while employed as Director of Human Resources at UNFPA, Mr. Hand was found by the Joint Appeals Board to have been involved in the instigation of an investigation with a pre-determined outcome. This was for the purpose of retaliating against a staff member. Ms Pollard was, or should have been, aware of this at the time of his selection. As the investigation into me has a similarly pre-determined outcome, I imagine she deliberately sought out someone she could have confidence would be willing to retaliate against a recognised whistleblower.
70. Mr. ██████'s contract with the UN appears to have ended in 2011, following which he has been employed as a human resources consultant. It appears the majority of his income comes from the UN. Following his separation from service, in 2014, the UN Dispute Tribunal referred Mr. Hand for accountability in relation to his efforts to subvert a recruitment exercise in order to ensure selection of a preferred candidate.¹⁷ Member states have repeatedly called for accountability of UN managers who break the rules, and this is reflected in ST/AI/2017/1, which provides in paragraphs 9.7 - 9.9 that former staff alleged to have committed unsatisfactory conduct where an investigation has not concluded shall have a note placed on their file, with a requirement to inform the ASG for human resources should they be hired by any UN agency. It is at best extraordinary that, from an unlimited choice of consultants for an unadvertised post, Ms Pollard would select someone who had been referred for accountability by the Tribunal, with no investigation apparently having concluded. Once again, this implies that Mr. ██████'s apparent willingness to ignore UN rules in favour of pleasing managers was perceived as an advantage.
71. I include my letter to Mr. ██████ regarding his conflict of interest as annex 12, and a follow-up email as annex 13. Mr. ██████ has not responded to either the letter or the email, despite my reminders. Ms Pollard and Ms Lopez have similarly failed to respond.
72. The second investigator hand-picked by Ms Pollard is Mr. ██████████████ who holds a post of Director in the Department of Global Communications. His professional obligation, therefore, must be to promote the interests of the United Nations, guard against reputational risk, and defend any statements the Organisation has made, to the media in

¹⁷ Judgement No. UNDT/2014/102, paras. 73-74.

particular. This creates a clear conflict of interest where the Organisation has lied about the staff member under investigation to the media and to member states. I attach my letter to Mr. [REDACTED] which is also without response, as annex 14.

73. The illegal investigation involves significant waste of UN resources, and will result in still further waste of resources when I am forced to challenge its pre-determined outcome before the Tribunals, likely with UN-funded Counsel. This is despite the following commitment of Ms Pollard in her 2020 Compact: "I will promote a culture of integrity and honesty within the Organization by ensuring staff members at all levels understand how the Secretariat acts to prevent, detect, deter, respond to and report on fraud and corruption by ensuring staff members at all levels are familiar with the contents of the AntiFraud and Anti-Corruption Framework and comply with the guidance and principles established therein (ST/IC/2016/25)."

I. Failure to recuse due to conflict of interests

74. A recurrent theme of this report of unsatisfactory conduct and abuse of authority is failure by Ms Pollard to recuse herself in the face of even the most obvious conflict of interests. Ms Pollard's 2020 Compact with you, Mr. Secretary-General, includes the following commitment: "I will exercise my delegated authorities as a senior manager in compliance with UN standards of conduct, free from conflicts-of-interest, and lead my department's/ office's commitment to the Organization's ethical culture by ensuring that my daily decisions and actions and those of my staff demonstrate integrity, transparency, accountability, respect and fairness."¹⁸
75. In the investigation purportedly into harassment and abuse of authority by the former High Commissioner and Mr. Tistoune, I proposed that the panel interview Ms. Pollard as a witness. She had a clear conflict of interest in presiding over treatment of my complaint. Nonetheless she selected panel members (choosing external consultants remunerated for this unique purpose), drafted their terms of reference and made the decision on their findings.
76. By the time of the investigation, the Administration had declared its position in relation to the defamatory press release in open court, and a subsequent finding that it had been an act of abuse of authority would have undermined the position taken by the Administration in that regard. The fact that the Administration already had an official line in relation to the correctness or otherwise of putting out the press release is why senior management could not preside over an independent investigation of the issue and issues arising from the same. This continues to apply. Ms Pollard deliberately deprived me of my legal right to an independent investigation of abuse of authority against me.
77. In the current investigation she has instigated into me, Ms Pollard's conflict of interests is even more blatant. She is fully aware that I have named her as the person leading retaliation against me since October 2019. She is further aware that an act of retaliation she apparently ordered is supposed to have been under investigation since July 2020. Nonetheless, without any authority to do so, and without any effort to even minimally follow UN rules, Ms Pollard unilaterally initiated investigation into me in January 2021, for the act of whistleblowing itself.
78. It is of note that Ms Pollard made the following commitment in her 2020 compact: "I will do everything possible to create an environment where staff feel safe to report suspected misconduct, and I will protect from retaliation any staff who reports misconduct or who cooperates with duly authorized audits or investigations."
79. Ms Pollard has demonstrated a willingness to ignore UN rules that is far below the standard of conduct expected of international civil servants. As the most senior UN official responsible for ensuring compliance of all staff with those rules, Ms Pollard's conduct is particularly grave.

¹⁸ Ms Pollard's 2020 Compact included as Annex 15.

80. In an effort to cover up and prevent accountability for a life-endangering policy, Ms Pollard has been willing to: ignore a court judgement; mislead member states to effect the removal of a judge to prevent further judgements; interfere in an independent audit to further mislead member states; allow UN staff to unilaterally ignore rules set by intergovernmental bodies; create a class of UN staff altogether exempt from UN rules; waste significant resources on illegal investigations; ignore direct instructions from you, Mr. Secretary General, for my protection; misrepresent the rules of the Organisation; deliberately present a false case before the Tribunal; and directly threaten a recognised whistleblower for the act of blowing the whistle.
81. Any one of these abuses would be extremely serious, particularly for such a senior official. Together, they are sufficient to indicate that Ms Pollard should be placed on leave for the duration of any investigation.
82. I reiterate my request that the Administration implement the recommendations of successive Ethics Officers, including those that you instructed be implemented in April 2018.
83. I further reiterate my repeated request that there be an external, independent investigation into the policy covered up by Ms Pollard, to prevent any further human rights defenders being directly exposed to danger by OHCHR.