

9 September 2020

Dear Secretary-General,

Having received no satisfactory response from the Ethics Office, I am writing to put on the record that the recommendations made by the Ethics Officer in my case are clearly inconsistent with both the gravity of his findings and the policy on protection against retaliation. I urge you to take an administrative decision that is at least prima facie capable of resulting in my protection against retaliation, and allowing me to move on with my life and career. More urgently, I reiterate my request that you investigate whether or not names of human rights activists continue to be handed to the Chinese government without their knowledge or consent.

Contrary to the apparent unanimous perception of UN senior management, public interest whistleblowers do not act out of some sort of childish attention-seeking, but genuinely in the interest of bringing an end to dangerous policies and practices. Unfortunately, I have discovered in the last seven years that the only possible way to do so is to bypass ineffective internal UN mechanisms, which seem designed to ensure impunity, and report misconduct, including in the form of repeated failures by UN senior management to implement UN policies, externally.

Need for investigation of secret policy of transmitting names of human rights defenders to the Chinese government

The UN policy on reporting misconduct required me to place principle before career, and to report a clearly dangerous secret policy of transmitting information on human rights activists to the Chinese government as soon as I became aware of it. OHCHR has never stuck to a single narrative on whether or not names are still transmitted. Your (successful) legal arguments in court were based on an assertion that my reports, as well as the objections of Member States (at least [REDACTED], [REDACTED] and [REDACTED]) and [REDACTED], were ineffective and the policy continues, as was claimed by successive Ethics Officers. As a first step, it should be established whether or not names of human rights defenders are still transmitted. OHCHR has, at every stage, simply asked this question of the Chief of the Human Rights Council Branch, the very person whose misconduct I reported. He has on each occasion responded with whatever lie or defamation he feels will best serve him at the time. These have included:

1. A false claim to a working-level meeting of the EU-27 in December 2013 that no names were ever transmitted, at a time when there is no dispute that the policy was ongoing;
2. False claims to the then High Commissioner and Deputy High Commissioner in July 2015 that no names were transmitted, again at a time when there is no dispute that the policy was ongoing;
3. A press release of February 2017, which used the present tense when stating names were still transmitted, but falsely claimed protective measures had been taken, and slandered and defamed me personally;
4. A false claim to a public meeting in March 2017, at which he represented the UN, that no names were transmitted, and that I was part of a right-wing conspiracy against the UN;
5. A false claim in a letter to Human Rights Watch of May 2017 that no names were handed over;
6. An apparently false claim in a letter to UN Watch of August 2017 that the practice had stopped in 2015, which is contradicted by letters from the Chinese delegation in the OHCHR registry;
7. Claims before the UN Dispute Tribunal that my reports were unwarranted and that the practice continues because it was unproblematic, i.e. it has been policy for the entire period from 2013 to the present;
8. A claim through the Human Rights Council spokesperson that no names had ever been handed over, explicitly because of the clear danger in which this would place human rights defenders, made at a press conference on 1 November 2019;

9. A claim to the Deputy High Commissioner, repeated to me in June 2020, that names were handed over for the whole period 2006-2016, but falsely stating that the decision of whether to hand over names lies with the Secretariat, specifically the Human Rights Council Branch of OHCHR, and *not* with Member States, despite the clear rule of the Human Rights Council on the issue.¹

Apparently this constantly changing narrative raised no questions among OHCHR or UN senior management at any point in the past seven and a half years. Managers preferred simply to ignore the fact that a senior manager was clearly lying to them in favour of accepting sexist and classist attacks against the whistleblower. My repeated efforts to correct these lies and end UN complicity, initially in the international crimes of torture and arbitrary detention, and later in genocide, were presented as a personality flaw or evidence of “attention-seeking” in order to justify inaction. Every allegedly independent mechanism in the UN simply ignored my reports, preferring to present a serious report of complicity of the UN in international crimes as an employment dispute.

A quick search of the OHCHR registry reveals that the language of the requests received from the Chinese delegation changed in 2016, no longer openly admitting prior knowledge of the accreditation status of individuals. However, with the exception of ██████████, whose name is consistently added, the list varies for every session of the Human Rights Council, and, cross-checking with later attendance, appears to correlate precisely to persons who have in fact sought accreditation. This raises at least a reasonable suspicion that names continue to be transmitted, although more likely orally than in writing. Despite all of my efforts for seven and a half years, OIOS and UN management have consistently refused to investigate this issue. I do realise that it is politically difficult to admit that mistakes were made, but I was right to report this dangerous practice, and it is clearly irresponsible for UN management to simply take the word of a person who has repeatedly lied about the policy to preserve his own position, without any effort whatsoever to verify whether human rights defenders continue to be actively endangered by the UN Secretariat when they seek to cooperate with UN human rights mechanisms.

I am disappointed that all of my reports of misconduct were simply ignored. The only action taken by the Administration was to deliberately defame me, ruin my career, and seek to create such a hostile working environment that I would leave. At no point did the Administration place principle over protecting senior officials from even the possibility of accountability. At no point did any manager ever meet with me to discuss this issue following my initial report. My only two meetings, with successive Deputy High Commissioners, were for the purpose of them openly threatening me. I attach the verbatim notes of the latest meeting, to demonstrate how little your most senior human rights officials seem to value human rights.

The principles on which the UN is founded require a genuine effort to establish whether or not names are still transmitted to the Chinese government, and to stop the policy if they are. Those responsible should be held accountable. Continued impunity merely ensures that the policy will continue in practice.

Need for genuine protective measures

I am fully aware that the decision to finally grant me “protection” as a whistleblower, albeit in name only, was likely as politically influenced as the previous decisions to deny me such protection. This is not an example of the system working to protect a whistleblower, but of an effort to subvert external pressure to implement a genuine policy of whistleblower protection from governments who are accountable to their populations.

¹ Verbatim notes attached as annex

counsellor, and even of the judge initially assigned to my case (prior to his removal without notice), who strongly recommended mediation. I share your frustration. However, this refusal is part of the retaliation, and protection against further retaliation clearly requires you to intervene to order my transfer, with my consent, to a suitable post outside of OHCHR so that I may contribute to human rights elsewhere in the UN system. As far as I and organisations dedicated to the protection of whistleblowers are aware, no public interest whistleblower has ever managed to continue their UN career after blowing the whistle. It is long past time to change that shameful fact if you are in fact serious about encouraging staff to report the most serious misconduct.

Need for investigation

I note that the Ethics Officer decides to offer OHCHR an option whereby OHCHR management may avoid an investigation of the retaliation against me. There is no such discretion in the policy. It has been determined, at prima facie level, that I have suffered seven and a half years of retaliation. The policy requires an investigation. Without investigation, there is no possibility of accountability. I note that, in the circumstances, OIOS cannot conduct this investigation, which should therefore be referred externally. OIOS management and investigators are aware that I reported both to you and externally a recording of Mr. Ben Swanson detailing collusion among the Ethics Office, Administrative Law Section and OIOS not to apply the reverse burden of proof explicitly provided in the policy on protection against retaliation, and in fact not even to investigate retaliation, notably as follows (emphasis added):

*“We then write to the subject and I'm paraphrasing here saying, ‘Look the Ethics office have said that you've prima facie you've have retaliated. Therefore you're guilty of retaliation against staff member A. Here's all the material, here is the ST/AI. **Write back to us in 10 days and tell us why you haven't been why you're not guilty of retaliation**’ ... they write back straight away and they invariably say ‘I didn't know anything about a protected act and this is nonsense. All I did was send out an email telling people to behave themselves’ Then we sort of make the judgment. Is it worth getting 64 gigabytes of emails to prove that they hadn't only sent the email out or do we take their word their sworn word for it. And then say, **‘Well Ethics office, there is never ever going to be any sanction imposed for this retaliatory act or what it was called and we're not going to do anything else.’** And the ethics office... they've swallowed it up and they have accepted it and like I say we've done **with** them two now I think we've got another two in the pipeline and it's working quite nicely. That brings the figures down, **that gets the Americans off the UN's back, which means they don't reduce their contribution.**”*

I hope that you will take an administrative decision in line with the policy as written, and order an external, independent investigation of the retaliation against me, with a view to ensuring accountability. I note that former UN staff, in particular human resources, Ethics or OIOS staff, cannot be considered independent.

I look forward to hearing from you.

Yours sincerely,



Emma Reilly