



MEMORANDUM INTERIEUR · INTEROFFICE MEMORANDUM

A: Ms Michelle Bachelet
TO: High Commissioner for Human Rights

DATE: 4 November 2019

DE: Emma Reilly
FROM: Human Rights Officer

OBJET: **Complaint of abuse of authority relating to false statements made by OHCHR**
SUBJECT: **spokesperson on 1 November 2019**

1. I am writing to request that you (1) immediately, publicly retract the false statement made by Mr. Rolando Gomez, Public Information Officer, OHCHR, on 1 November 2019, and (2) open an investigation for abuse of authority by Mr. Gomez in making said statement, per ST/SGB/2019/8.

2. On 1 November 2019, in response to a press query about OHCHR practice of disclosing to the Chinese delegation whether named individuals planned to attend the Human Rights Council, Mr. Gomez made the following statement:

“Let me just clarify very clearly to put. I hope to put this mis-, um, this distortion, I would say, to rest. So there... Under no circumstances the Office of the High Commissioner divulge names of human rights defenders coming to the Council. Um, this is not a practice. So we are very vigilant, like the president just announced. We echo that that very firm stance. Um, you know, civil society, the voice of civil society they really complete the work of the Council, they're vital actors in the Council. We do our utmost to preserve their, um, their security. Any threats against them we take very seriously and we would never, ever dream of actually divulging names, um, so, uh, we can perhaps talk more about this afterwards, but, uh, this is something that needs to be put to rest, once and for all.”¹

3. ST/SGB/2019/8 defines abuse of authority as “the improper use of a position of influence, power or authority against another person... Abuse of authority may also include conduct that creates a hostile or offensive work environment...” In his role as the OHCHR spokesperson accompanying the President of the Human Rights Council, Mr. Gomez improperly used his authority to openly lie about the OHCHR practice of providing names of human rights defenders to the Chinese delegation. He did so in direct response to a question that referenced me as having blown the whistle on this practice. The clear intention of the statement was to falsely claim that the practice I reported had never occurred, and thus to publicly defame me as a liar. In the context of OHCHR leaving a false and defamatory press release in the public domain since 2 February 2017, this conduct clearly contributes to the hostile and offensive work environment created by the press release. All UN staff and the general public have once again been deliberately given the false impression that I am a liar.

4. It is trite law that it constitutes abuse of authority for my employer to make false, public statements regarding my disclosures. My complaint of 13 March 2017 against your predecessor relating to the false and defamatory OHCHR press release of 2 February 2017 has

¹ Unofficial transcript by author, video available at: <http://webtv.un.org/media/watch/coly-seck-president-of-the-human-rights-council-press-conference-1-november-2019/6099799473001/?term>



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now, following a judgment in my favour (UNDT/2019/094), resulted in your predecessor being placed under investigation for abuse of authority. It is clear that making false and defamatory statements about a UN staff member is therefore capable of constituting abuse of authority.

5. The UN argued before the UNDT in case UNDT/2018/099 that:

“After having made her case to three different and independent Ethics Offices which included the submission of numerous documents, the Applicant tries again to demonstrate that her reports which referred to a practice of OHCHR of confirming the participation of named individuals to sessions of the Human Rights Council with the Permanent Mission of China constitute protected activity under the 2005 retaliation policy. All Ethics Offices, after having diligently and professionally conducted their reviews, concluded that the information sharing did not constitute a protected activity under the retaliation policy.” (Respondent’s reply, paragraph 115)

6. There is no factual dispute. OHCHR had, and presumably still has, a policy of providing the Chinese delegation with advance information on whether named individuals would attend the Council, without their knowledge or consent and, where applicable, without informing their countries of nationality and asylum. Some of the human rights defenders provided witness testimony as to the danger in which such practices placed their families in China in case UNDT/2018/099. I have argued since early 2013 that OHCHR should never have provided names, and should immediately halt this practice. OHCHR argues that it is “unreasonable” for me to take that position.

7. It is clearly unreasonable for OHCHR to publicly admit the danger of this practice, and even claim it never happened, while privately defending it and continuing to retaliate against me for having reported it as misconduct.

8. Mr. Gomez has not responded to my queries as to whether he acted under instructions, and as to the content of any further, private interaction with the journalist following his public statement. In case you instructed your spokespersons to lie if asked about this practice, you would obviously have a conflict of interests in taking any decision relating to this complaint. I trust that you will refer it if such is the case, and copy both Ms Pollard and the Secretary-General in this regard.

I look forward to your earliest response, and reiterate my request to meet. It is clear that you have been seriously misled about my case if your own spokespersons are openly lying about it in your name. If it is genuinely the UN position that this practice, which applies only to China, does not expose human rights defenders to danger despite their testimony that it does, there is presumably nothing to prevent the UN taking the same position in public as it does in legal filings. I continue to believe that I simply respected my obligation as a staff member to report life-endangering misconduct, and remain stunned by the failure of any manager to meet to discuss this issue with me for almost seven years.



Copy to:

Secretary-General

Ms. Catherine Pollard, USG for Management Strategy, Policy and Compliance

Mr. Andrew Gilmour, ASG for Human Rights and focal point on reprisals