Response to allegations of misconduct

Emma Reilly, 30 September 2021

1. The following is necessarily an incomplete response. While the UN Administration took more than six months to act on the report of the 'investigation' panel following its receipt, I was initially granted only one month to respond, at a time when the Administration was fully aware I also had to respond to its illegal overturning of a finding that I am indeed a whistleblower being subjected to retaliation, to appeal a judgement, and [redacted]. While I was granted an extension of one further month, this was essentially meaningless, as I had no access to relevant exculpatory evidence for the entire of the second month, the modalities for accessing my email having been changed without my knowledge, as I was banned by the Administration from reporting to work following the invasion of my home by armed Swiss police officers sent at the behest of the Administration. While I raised this lack of access with the Administration on 8 September 2021, and assiduously followed up, action to restore my access was only taken on the afternoon of 29 September 2021 relating to a deadline for response of 30 September 2021.

A. The OHCHR policy of transmitting names to the Chinese delegation ("the policy")

2. It is undisputed that, from the beginning of the Human Rights Council in 2006, OHCHR staff, acting on the instructions of the Chief of the Human Rights Council Branch, responded to queries from the Chinese delegation asking whether specific human rights defenders had applied for accreditation to upcoming sessions of the Human Rights Council.
3. The policy was to hand over names upon request. No protective measures whatsoever were taken, and neither the human rights defenders nor the NGOs accrediting them were informed. The only security assessment carried out was an assessment of the security of Chinese diplomats from the human rights defenders, upon receipt of a note verbale objecting to their accreditation.
4. This policy applied uniquely to the Chinese delegation. A request from the Turkish delegation to know the accreditation status of individuals in September 2012 was refused explicitly on the basis that it would be against the rules of the Human Rights Council to transmit this information (See reference in annex 1). The procedure applied to other delegations was that if the delegation felt any individual posed a security threat, they would forward evidence of such a threat to the Secretariat, which would forward it to UNOG Security. The delegation would then be told whether or not, should the person apply for accreditation, it would be granted. To the best of my knowledge, at no stage was any other delegation told whether a specific individual had applied for such accreditation. The Chinese delegation did not believe it had a right to such information, but explicitly termed it a "favour" on the part of the Secretariat (Annex 2 at p.6).
5. Despite numerous online and paper guides for NGO participants being published since 2006, this policy was not at any stage mentioned in any of them. The list of participants of upcoming sessions of the Council is not published either before or after the session, and so human rights defenders had no reason to believe or suspect that OHCHR would inform the Chinese delegation of their applications for accreditation without their knowledge or consent.
6. In early 2013, I took over responsibility for NGO liaison in the Human Rights Council Branch and a colleague in the Civil Society Section, [redacted], showed me a request from the Chinese delegation to know the accreditation status of individuals. I offered to inform the delegation of the rule prohibiting transmission of such information and proposing that they follow the standard procedure applied to other delegations. [redacted] indicated that she would consult the Chief of the Human Rights Council Branch. I expressed concern that applying any exception for the Chinese delegation would expose human rights defenders and their families and associates in China to danger.
7. [redacted] did not inform me that there was already a policy of providing names to the Chinese delegation, despite the fact that she herself was the individual who had transmitted names for at least the two previous sessions (Annexes 3 and 4). Neither did any of the other staff involved do so. Every conversation and email exchange in February 2013 unambiguously

gave the impression that this was a novel request being considered for the first time (See annex 2). Extraordinarily, when the Chinese delegation asked to meet the Secretariat to discuss the matter, the member of the delegation did not mention that all he was requesting was the continuation of an established policy, but also indicated it was a novel request (Annex 5).

8. The fact that staff members already directly involved in passing names to the Chinese delegation pretended that this was a new issue being considered for the first time strongly indicates that, when I raised objections that it would expose human rights defenders to danger, they agreed with this assessment. It is difficult to imagine another motivation for concealing the policy internally.

9. In the email exchanges and meetings, every staff member other than the Chief of the Human Rights Council Branch (Mr. Eric Tistounet), including those who had in fact previously handed over names, opposed giving names to the Chinese delegation. Mr. Tistounet overruled all of us, explicitly based on a claim that the list of participants in the Human Rights Council is a public document, and therefore that the request could not be resisted (Annex 2). This is inconsistent with the UN's subsequent, public claims of protective measures or that any discretion could apply or was exercised; the justification of the policy was that the names were somehow public weeks in advance of Council sessions, and therefore that compliance with the Chinese delegation's request was somehow compulsory.

10. Mr. Tistounet explicitly opposed any delay in handing over names on the basis that this could "exacerbate Chinese mistrust" of the Secretariat. The instruction was clear and unambiguous, and contained no instruction for any protective measure. Mr. Tistounet consented only to allow us to inform the NGO accrediting individuals (not the individuals themselves), but only after names had already been handed over (Annex 6).

11. In court hearings of June 2019, UN lawyers relied on this argument that the request from the Chinese delegation could under no circumstances whatsoever be resisted by the Secretariat, because the list of names is somehow a public document. My cross-examination on the issue was clear and unambiguous:

    UN lawyer: Is it correct to say the list of accredited persons is supposed to be a public one?
    Emma Reilly: No, that's not correct.
    UN lawyer: That's not correct?
    Emma Reilly: The list is never published, no.
    UN lawyer: The list is never published, ok. So, you are denying all the responses that were given to you by the High Commissioner and the senior management?
    Emma Reilly: I'm saying that you can look at the report of the Human Rights Council and you will see that there is no list of names attached.
    UN lawyer: OK
    Emma Reilly: It's not that I'm denying a response, it's that there is no published list of human.. of specific individuals who attend the session. As I mentioned before, when they are on video, if they choose to take the floor during the session, their name is listed there, and that is considered to be the summary record of the session. There is no document where it lists which specific individuals have attended the session.
    UN lawyer: OK, so, … so there is no public list of public meetings, who attends the public meeting?
    Emma Reilly: No.
    UN lawyer: So how do they get into the building?
    Emma Reilly: There's the accreditation process…
    UN lawyer (interrupting): Yes, so I think there is a public document.
    Emma Reilly: … which is a private document, it's not a published document. It's not a public document.
    UN lawyer: OK.[1]

[1] Hearings of 11 June 2019, from 02:01:00.

12. This court argument is inconsistent with any claim that the policy changed during the period 2013 - 2019. UN lawyers in fact cited the Ethics Office finding of October 2016 that handing names to the Chinese delegation could not constitute misconduct specifically because my reports had, contrary to my belief in 2016, led to no change in policy (Annex 7, at paragraph 27). On each subsequent occasion that OHCHR publicly claimed that the policy had changed, I requested that the UN amend its court submissions to reflect the claimed change (see, for example, Annex 8). OHCHR never did so. As UN lawyers argued in court that there is no limit to the methods the UN may use to protect itself against any perceived reputational damage, up to and including lying about its policies, I can only presume that the court position is the actual position. It would clearly be a serious matter for UN senior management to knowingly mislead and prejudice the Tribunal.

13. The evidence available to me indicates that the policy continues. For example, by comparing the list of persons about whom the Chinese delegation inquired in sessions for September 2018, 2019 and 2020 (Annexes 9, 10 and 11), it is clear that the delegation objected to accreditation of campaigners on Tibet only for the session to which they in fact applied for accreditation.[2] It seems unlikely that the Chinese delegation stopped being concerned about human rights defenders raising the situation in Tibet for the other two sessions. The persons named have confirmed that, at the time of the Chinese delegation's enquiry, their planned participation in the Human Rights Council had not been made public, but they had applied for accreditation.

14. At no point prior to June 2020 did any UN staff member ever claim to me that the policy had changed. When I asked the then Deputy High Commissioner, Ms Kate Gilmore, what OHCHR claimed the policy was in September 2017, she declined to respond (Annex 12). Every senior manager has ignored or refused my requests for investigation of whether the policy continues since I first reported it in 2013 (See latest OIOS refusal to investigate at Annex 13). In the absence of a written response within six months of a report of misconduct, external reports are protected activities.[3]

15. In the June 2020 instruction which I am charged with disobeying, Ms al Nashif claimed that the policy had changed in 2015. I asked her, if this claim was true, to amend the UN court position, which explicitly relies on OHCHR having no choice but to provide names to the Chinese delegation upon request (Annex 8). She did not do so. It would constitute unsatisfactory conduct for Ms al Nashif, as the OHCHR official responsible for instructing lawyers, to knowingly and deliberately mislead the Tribunal or allow the Tribunal to continue to be misled in an ongoing matter, thus prejudicing proceedings, so I can only presume that she became aware the policy continues.

16. Ms al Nashif explicitly stated that OHCHR policy is that it is entirely within the discretion of the Chief of the Human Rights Council Branch to decide in every case whether or not to hand names to the Chinese delegation. Even if the claim the practice changed in 2015 were true - and the UN has produced no evidence whatsoever to support this contention - the obligation to report a dangerous policy would remain. Whether names are handed over in every case, or disclosed without the knowledge or consent of the individual on a wholly discretionary and apparently arbitrary basis (which raises the question of the criteria applied), the policy breaches international law, the rules of the UN Human Rights Council, and UN rules.

B. The policy, and the UN failure to investigate, are illegal under international human rights law, and I have an ongoing obligation to report it

17. The UN is mandated to uphold international law. It is a basic principle of international law that international law has primacy over national laws and employment rules, even those of the UN itself. Under the OHCHR code of conduct, I am required to "Promote the advancement and observance of all human rights as defined by international instruments, and base all actions, statements, analysis and work on these standards" (para. 1). Previous attempts by the UN to

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[2] See announcement, dated after the NV from the Chinese PM: https://tibet.net/highlighting-human-rights-situation-in-tibet-cta-delegation-advocates-at-the-un/

[3] ST/SGB/2017/2/Rev.1 at section 4(b)(iii).

argue that international law does not apply to UN staff have been met with rebuke by the UNAT.[4]

18. The distinction between rule of law and legal positivism / international law and national law is often drawn by reference to international crimes committed during the Second World War, which gave rise to the establishment of the UN. While Nazi concentration camp guards were doing their jobs in compliance with the national law by committing genocide, they were guilty under international law. People seeking to protect Jewish, Roma, LGBTQ, political activists or other groups or individuals from Nazis were guilty under the national law - and frequently held responsible for their "crimes" - but innocent under international law.

19. Some international legal instruments foresee compulsory disobedience of orders that are illegal under international law, regardless of their "legality" under employment rules and regulations. For example, at article 2(3), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that an order from a superior officer or a public authority shall never be invoked as a justification for torture. The same instrument requires that complicity in torture shall be a criminal offence (article 4), and that a State shall immediately conduct investigation where there are grounds to believe such an offence has been committed (articles 6 and 12). Importantly, no statute of limitations can apply to the crime of torture and other international crimes, so these obligations apply immediately whenever the offence occurred.[5]

20. In my initial reports to and subsequent communications with the UN management, I have repeatedly pointed out that the policy of handing names to the delegation of China may constitute complicity in subsequent violations of human rights perpetrated by the government of China against relatives of those individuals in an effort to prevent them from speaking out. Notably, I sent a letter to the Secretary-General on 31 October 2018, copying the High Commissioner for Human Rights and other senior officials, laying out the international legal issues raised, noting the forthcoming Universal Periodic Review of China, and reiterating my repeated request that he investigate the policy (Annex 14).

21. The United Nations is a subject of international law with a legal personality that is separate from that of Member States.[6] The Draft Articles on the Responsibility of International Organizations, prepared by the International Law Commission, address circumstances where an international organization aids or assists in the commission of an internationally wrongful act.[7] Article 14 provides that

> "[a]n international organization which aids or assists a State … in the commission of an internationally wrongful act by the State … is internationally responsible for doing so if… (a) the … organization does so with knowledge of the circumstances of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that organization."[8]

22. Providing names of human rights defenders to China in advance of sessions of the Human Rights Council and Universal Periodic Review is therefore capable of amounting to complicity in international crimes subsequently committed against the family members of those whose names are handed over in order to prevent them speaking out.

23. As regards Article 14(a), the UN is fully aware of the reprisals taken by China to try to prevent human rights defenders cooperating with UN human rights mechanisms, and indeed includes

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[4] Chen, 2011-UNAT-107, paras. 15, 18-19 and 22.

[5] See, for example, Committee against Torture, Concluding Observations on Turkey, UN Doc. CAT/C/CR/30/5, 2003, §7(c); Concluding Observations on Chile, UN Doc. CAT/C/CR/32/5, 2004, §7(f). For a more detailed discussion of the obligations, see Emma Reilly, *Torture in International Law: A Guide to Jurisprudence*, APT, 2008, p.19, available here: https://www.apt.ch/en/resources/publications/torture-international-law-guide-jurisprudence-2008

[6] *Reparation for Injuries Suffered in the Service of the United Nations* (Advisory Opinion), ICJ Rep 1949, p. 174.

[7] See General Assembly Resolutions 66/98, 66/100, 69/126, and 72/122. The draft articles are available here: http://legal.un.org/docs/?path=../ilc/texts/instruments/english/draft_articles/9_11_2011.pdf&lang=EF

[8] It should be noted that article 14 is almost an exact reproduction of article 16 of the Draft Articles on State Responsibility, which has been found to be a rule of customary international law by the International Court of Justice: Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro), Judgment, ICJ Rep 2007, para. 420.

these in annual reports of the Secretary-General to the Human Rights Council on intimidation and reprisals for cooperation with the UN in the field of human rights. The listed reprisals include reprisals against persons whose names were in fact handed to China by OHCHR without their knowledge and consent. In this context, it is difficult to imagine a positive purpose for which the names could be used that would justify breaching the rules of the Council to provide them. As regards 14(b), this requirement is met by human rights violations, including arbitrary arrest, arbitrary detention, torture and genocide, as they would be violations of international law if committed by the UN itself.

24. I provided specific examples of retaliation against some of those whose names were handed over.[9] For example, on 1 June 2006, sons of Ms Rebiya Kadeer, whose intention to speak at the Council has been disclosed to China on every occasion that she has attended, were beaten by police in front of their young children as well as their sister, who was then handed a mobile phone and told to call Ms Kadeer in the USA to tell her what was happening, and specifically to encourage her to stop her international advocacy.[10] Her children, and currently 30 members of her extended family, have been in detention for the entire period for which OHCHR has handed over her name, and frequently subjected to torture in an effort to stop her from speaking out.[11] Torture of her family members by agents of the Chinese government specifically to stop her from speaking at the Human Rights Council is therefore a reasonably foreseeable consequence of secretly providing China with advance notice of precisely when she plans to speak, without Ms Kadeer's knowledge or consent. This has been true since, at the absolute latest, 1 June 2006, shortly after OHCHR now admits this policy began. Other persons of Uyghur origin on the list have reported similar incidents.

25. The policy similarly affects family members of human rights activists in Chinese detention. When I discovered that the 2013 emails and meetings debating the policy (see annex 2) were in fact a farce for my benefit, and the policy of secretly providing names to China was already in place, I transmitted to the Secretary-General and others emails from 2012 in which names were sent to the personal email address of a Chinese delegate. I specifically noted the dangers of handing over Geng He's name in September 2012, and the clear lack of any protective measures. Ms Geng's husband is human rights lawyer Gao Zhisheng, who at the time her name was handed over was held in secret, arbitrary detention by the Chinese government. The Working Group on Arbitrary Detention was in fact seized of his case, on which it issued public statement in the same year.[12] At the time Ms Geng's name was transmitted, he was held in incommunicado detention. Incommunicado detention is prohibited under international law, in part due to the likelihood of physical torture it entails. It was therefore reasonably foreseeable that informing the Chinese government of his wife's plan to speak at the Human Rights Council could result in mistreatment of Mr. Gao in an effort to prevent her from speaking out. In fact, Mr. Gao later smuggled out a book in which he describes his torture, including for the specific purpose of dissuading his family members and other supporters from speaking out.[13] Without the investigation mandated under international law and UN rules, it is impossible for the UN to claim a lack of causal link between the provision of information and the harm, as it has nonetheless publicly done.

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[9] I include here only details related to individuals where the facts of their names being transmitted, and of their family members being tortured, are already public knowledge. Family members of lesser known individuals who were victims of this policy have been subjected to similar human rights abuses, and in one case a person whose name was on the list returned to China and subsequently died in detention. As the UN refused to investigate a leak of confidential documents in my case in 2017, I cannot have confidence that confidential information would not be inappropriately shared either internally or with the Chinese delegation, and my absolute duty to protect the safety and confidentiality of human rights defenders and their families is clearly stronger than my need to protect myself against ongoing UN retaliation against me for whistleblowing. I risk loss of my income, home, career, reputation and medical insurance for myself and my family, while the risks to them are of considerably greater consequence.

[10] See, for example, https://humanrightshouse.org/articles/urgent-action-required-grave-health-fears-for-rebiya-kadeers-son/ ; https://www.govinfo.gov/content/pkg/BILLS-110hres497eh/html/BILLS-110hres497eh.htm

[11] See, for example, https://www.uyghurcongress.org/en/urgent-action-son-of-uighur-activist-tortured-in-prison/ (2010)

[12] See https://newsarchive.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11741&LangID=E

[13] Gao Zhisheng, *Unwavering Convictions: Gao Zhisheng's Ten-Year Torture and Faith in China's Future*, Carolina Academic Press, 2017.

26. I further noted the clear lack of any protective measures whatsoever in the case of Geng He, contrary to the false presentation in OHCHR's press release of 2 February 2017. The Chinese delegate sent the email inquiring about individuals at 09:57 CET on 7 September 2012, and received two names (Dokun Isa and Geng He) at 16:41 CET on the same day. Ms Geng is resident in California, and these times correspond to the period 00:57 to 07:41 PDT, a period for the vast majority of which it may reasonably be presumed that she was asleep. No effort whatsoever was made to contact Ms Geng to obtain her consent, or even to inform her that her name was being transmitted to the government that held her husband in secret, arbitrary detention.

27. I proposed to the UN Dispute Tribunal an elected, expert member of the Working Group on Arbitrary Detention as a witness of the foreseeable harm of this policy, and the reasonableness of my belief that it is illegal under international law, but the Tribunal did not allow the witness on the basis that it does not have jurisdiction to examine the merits of the policy itself.

28. Dolkun Isa, whose name has been handed by OHCHR to China on multiple occasions, provided a witness statement detailing direct retaliation by the Chinese government against him - including on UN premises - and against his family members still in China when the government is made aware of his plans to speak out (Annex 15). I repeatedly transmitted this witness statement to UN managers, with Mr. Isa's consent, as part of my pleas for investigation.

29. I have never received any response to any of these reports. No investigation has ever been conducted. Nor have UN managers expressed any disagreement with the legal reasoning contained therein. If the UN were a State party to the Convention against Torture or the International Covenant on Civil and Political Rights, its failure to investigate this policy in light of the foreseeability and indeed evidence of harm would constitute a violation of its international legal obligations. Under the Draft Articles on the Responsibility of International Organizations, the UN is complicit in international crimes committed in response to provision of names to China, and bears legal responsibility towards victims of the policy for the harm suffered. To my knowledge, none of the victims that has asked has ever received any response from the UN regarding this policy, including on the issue of whether it continues.

30. Article 19 of the Standards of Conduct of the International Civil Service provides an obligation on UN staff of disobedience of instructions that "are manifestly inconsistent with their official functions or that threaten their safety or that of others."[14] I am charged with disobeying an instruction to cover up a policy, which the UN claims in court continues, that amounts to complicity in international crimes and breaches international human rights law. As all of my requests for investigation have been ignored, my job title is Human Rights Officer, and OHCHR is expressly mandated to promote international human rights law, this instruction was manifestly inconsistent with my official functions. Furthermore, while the UN court position is that the policy is public, it very clearly is not (see section D, below). Keeping this policy secret, and failing to investigate its extent and impact, clearly threatens the safety of human rights defenders whose names may be handed over and their families. They have a right to know the full range of risks they undertake in cooperating with UN mechanisms. I was therefore obligated under UN rules to disobey the instructions in order to continue to try to obtain the end to the policy and investigation that are required under international law, or at minimum to warn human rights defenders of the potential risks.

C. The policy breaches UN rules and I have an ongoing obligation to report it

31. Just as the UN has never responded to the argument that this policy breaches international human rights law, it has never responded to my detailed, legal arguments that the policy breaches the rules of the UN Human Rights Council, the UN Charter, and UN staff rules and regulations, and therefore does indeed constitute unsatisfactory conduct on the part of the official who ordered it beginning in 2006.

32. The initial Ethics Officers who responded to my 2016 complaint of retaliation failed to examine these breaches of written rules and regulations, and it is only this omission that enabled Ms Pollard to present my reports to the panel as relating to a "policy disagreement," rather than a

[14] Available here: https://icsc.un.org/Resources/General/Publications/standardsE.pdf

protected report of misconduct. The Tribunal ruled in my case that it has no jurisdiction to examine even omissions of such a grave nature that they clearly render assessments by Ethics Officers fatally flawed. Ms Pollard, as the senior official responsible for management in the Organisation, has an obligation to ensure application of its rules, and to act upon serious breaches of the rules. She is fully aware of the rules broken by this policy, of which I have informed her and senior managers on numerous occasions. She cannot hide behind the finding of an Ethics Officer from Unicef. That Ethics Officer failed to even consider the rules of the UN Secretariat that were breached, but Ms Pollard's function in the organisation is precisely to ensure the enforcement of UN rules.

33. The policy directly breached the explicit, written rule set by member states. In Human Rights Council Resolution 5/1, the Council decided that, unless its new rules of procedure specified an exception, the practices of the former Commission on Human Rights would apply (Rule of Procedure 7(a)). Those practices include the following:

> "Whenever any Government participating in the work of the Commission requests the secretariat to verify or confirm the accreditation of any particular NGO representative(s), immediate action is taken in this regard and the results of the verification are publicly reported by the secretariat to the plenary of the Commission or brought to the attention of the Expanded Bureau of the Commission."[15]

34. The rule is clear. Any member state seeking such information must make the request in front of other member states so that they may object if necessary, and so that human rights activists are aware of the request. When it acts as Secretariat of an inter-governmental body, OHCHR must apply the rules determined by that body, and individual staff members do not have discretionary power to change them or to apply them in a discriminatory manner among States.[16]

35. This is an issue for member states, and not UN staff, to decide. Prior to his removal without notice, which the UN claims it had no obligation to provide, the UN Dispute Tribunal Judge Rowan Downing noted that the specific rule that exists in this case may not even be a prerequisite for there to have been an obligation on the UN Secretariat to consult member states in response to the request from China:

> "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 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?"[17]

36. The Administration declined to investigate my complaint of abuse of authority against the Executive Director of the Office of Administration of Justice for deliberately misleading the General Assembly to ensure the immediate removal of Judge Downing without notice after he had drafted judgment in the remaining two of my three cases before the Tribunal. His first judgement had found that the UN Secretary-General had unilaterally decided not to apply UN

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[15] *Main rules and practices followed by the Commission on Human Rights in the organization of its work and the conduct of business* (Note by the Secretariat, doc.E/CN.4/2001/CRP.1), in *Compilation of recent documents in relation to the enhancement of the working methods of the Commission on Human Rights* (1999 – 2005) http://www.ohchr.org/Documents/HRBodies/HRCouncil/CompilationDocuments1999-2005.pdf, p.28, para 42.

[16] See Human Rights Council Resolution 5/1, which provides, inter alia, that the methods of work of the Human Rights Council "should be transparent, impartial, equitable, fair, pragmatic; lead to clarity, predictability, and inclusiveness" (para 110). These methods of work are set and periodically reviewed by the Council itself, and are not set or changed by the Secretariat: http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_1.doc

[17] Hearing of 12 June 2019, from 01:05:49.

rules in my case.[18] The failure to apply UN rules in my case is a pattern that began following my first report in February 2013 and has continued ever since.

37. As outlined above, sharing this information clearly had the potential to place human rights defenders and their families in danger. Placing them in such danger clearly violates Article 11 of the Code of Conduct for OHCHR staff, which provides that they must "[r]efrain from endangering, by way of their words or action during or after their service with the OHCHR, the safety and privacy of the people with whom they come into contact."[19] As the policy, in place since 2006, was never published in any NGO guide or other materials relating to interaction of NGOs with the Council or other human rights bodies, human rights activists applying for accreditation had a reasonable expectation that this information would remain confidential and not be handed in advance to one particular member state by OHCHR. OHCHR took no steps to seek consent, and so the practice constitutes a breach of privacy, further violating article 11 on this ground.

38. Article 100 (1) of the UN Charter provides:

> "In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization."

39. This principle is reflected in Staff regulation 1.2 (d), which provides:

> "In the performance of their duties staff members shall neither seek nor accept instructions from any Government or from any other source external to the Organization"

40. The principle is further reflected in paragraph 8 of the Standards of Conduct of the International Civil Service, which provides:

> "If the impartiality of the international civil service is to be maintained, international civil servants must remain independent of any authority outside their organization; their conduct must reflect that independence. In keeping with their oath of office, they should not seek nor should they accept instructions from any Government, person or entity external to the organization. It cannot be too strongly stressed that international civil servants are not, in any sense, representatives of Governments or other entities, nor are they proponents of their policies. This applies equally to those on secondment from Governments and to those whose services have been made available from elsewhere. International civil servants should be constantly aware that, through their allegiance to the Charter and the corresponding instruments of each organization, member States and their representatives are committed to respect their independent status."

41. Responding positively to a request for a "favour" from the Chinese delegation, in breach of rules set by the UN Human Rights Council, clearly breaches the Charter obligation not to accept instructions from particular governments. It is of note that a request from the Turkish delegation for information on the accreditation status of individuals was refused in September 2012, while names were in fact provided to China in the same month.

42. Staff regulation 1.2 (i) provides:

> "Staff members shall exercise the utmost discretion with regard to all matters of official business. They shall not communicate to any Government, entity, person or any other source any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General…"

43. At the time of provision of names to the Chinese government, the Chief of the Human Rights Council Branch was fully aware that this was not public information. There is no evidence that he had authorization of the Secretary-General in taking the decision in 2006 or subsequently that such information should be provided to China. The policy therefore breaches this rule.

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[18] Judgment No. UNDT/2019/094, at para. 50, https://www.un.org/en/internaljustice/files/undt/judgments/undt-2019-094.pdf

[19] In the absence of access to the OHCHR intranet, I relied on an online copy: https://www.unwatch.org/wp-content/uploads/2009/12/Code_conduct_OHCHRStaff.pdf

44. Paragraph 5 of the Standards of Conduct of the International Civil Service provides:

> "The concept of integrity enshrined in the Charter of the United Nations embraces all aspects of an international civil servant's behaviour, including such qualities as honesty, truthfulness, impartiality and incorruptibility. These qualities are as basic as those of competence and efficiency, also enshrined in the Charter."

45. The repeated, public denials and misrepresentations of the policy by the Chief of the Human Rights Council Branch and official UN spokespersons to other State delegations and the general public (see section D, below) clearly breaches this obligation of integrity. The policy itself, which was applied only to the Chinese government, demonstrates partiality and thus also breaches this standard.

46. I provided detailed information to successive Ethics Officers on how the decision and instruction to provide information to the Chinese delegation was in breach of Article 100(1) of the UN Charter; Staff regulations 1.2 (d) and 1.2 (i); paragraphs 5, 8, 27 and 28 of the Standards of Conduct of the International Civil Service; and Article 11 of the Code of Conduct for OHCHR staff. My belief the policy constitutes misconduct on the part of the individual staff member who put it in place, the Chief of the Human Rights Council Branch, was and remains reasonable.

47. This information was simply ignored and omitted from the analysis of the Ethics Officer cited by Ms Pollard. It was, however, finally considered by the UNHCR Ethics Officer in his review in July 2020, in which he recognised me as a whistleblower (Annex 16). UN policy explicitly required investigation of my case at that point. The UN Ethics Office recommended external investigation given the conflict of interests of OIOS (Annex 17). Ms Pollard refused such referral (Annex 18). The UN Ethics Office then referred my case for investigation to OIOS in October 2020. No investigation was ever conducted, despite there being no discretion in the policy in this regard. Ms Pollard failed to inform the panel of this relevant fact, but instead illegally interfered in the independence of the Ethics Panel of the United Nations to secure an illegal reversal of the finding in clear contravention of UN rules.

48. Ms Pollard is fully aware that no counter-analysis whatsoever has ever been provided by the UN to these arguments that the policy constitutes misconduct under UN rules. In court, the UN successfully argued that both the policy and the failures by Ethics Officers to consider why it constituted misconduct were inadmissible. The lack of any independent court with jurisdiction to adjudicate the issue does not change history that the argument was in fact made. My reports of misconduct regarding this policy have never been investigated.

49. UN staff have a duty to report misconduct, and a right to be protected against retaliation for such reports. OIOS has refused to investigate since 2013 (see Annex 13 for a recent refusal), despite recognising that I have at all times acted with integrity in making the reports (Annex 19). Ms Pollard explicitly excluded misconduct related to the policy from the mandate of the investigation into possible misconduct by the former High Commissioner and the Chief of the Human Rights Council Branch (Annex 20).

50. UN rules foresee external reports of misconduct under certain, exceptional circumstances, which are set out in section 4 of ST/SGB/2017/2/Rev.1, which provides in Section 4:

> "Notwithstanding staff regulation 1.2 (i), protection against retaliation will be extended to an individual who reports misconduct to an entity or individual outside of the established internal mechanisms, where the criteria set out in subparagraphs (a), (b) and (c) below are satisfied:
>
> (a) Such reporting is necessary to avoid:
>
> (i) A significant threat to public health and safety; or
>
> (ii) Substantive damage to the Organization's operations; or
>
> (iii) Violations of national or international law; and
>
> (b) The use of internal mechanisms is not possible because:
>
> (i) At the time the report is made, the individual has grounds to believe that he/she will be subjected to retaliation by the person(s) he/she should report to pursuant to the established internal mechanism; or

(ii) It is likely that evidence relating to the misconduct will be concealed or destroyed if the individual reports to the person(s) he/she should report to pursuant to the established internal mechanisms; or

(iii) The individual has previously reported the same information through the established internal mechanisms, and the Organization has failed to inform the individual in writing of the status of the matter within six months of such a report; and

(c) The individual does not accept payment or any other benefit from any party for such report."

51. These conditions are met in the present instance. The policy violates international law, as laid out in section B above, so condition (a)(iii) is fulfilled. I would submit that the policy also poses a risk to UN operations, in that such a secret policy reduces trust in the UN to fulfil its mandate impartially and creates suspicion of undue influence of China. It is also a threat to the safety of human rights defenders and their families, as outlined above. All three conditions under (b) are in fact fulfilled. I have been subjected to serious retaliation since my first report in 2013, as confirmed by the UNHCR Ethics Officer, so condition b(i) is fulfilled. The UN has repeatedly, publicly lied about the policy, and I have previously provided evidence that the Chief of the Human Rights Council has concealed communications regarding this policy from the China desk officer, which makes it likely that evidence of it would again be concealed or destroyed, so condition (b)(ii) is fulfilled. I would submit that the purported instruction not to mention the policy to anyone outside the UN also fulfils this criterion. I have been reporting this policy since 2013 and have never, at any point, received any response whatsoever on the substance of my report despite all my efforts, so condition (b)(iii) is also fulfilled. Finally, I have not accepted any payment or other benefit from any party at any time for my reports, so condition (c) is fulfilled.

52. UN staff members have a clear and unambiguous duty to report misconduct, including violations of international law. Where the most senior managers, notably Ms Pollard herself, are actively involved in the cover-up and retaliation, external reports are required in order to try to end life-endangering policies. I in fact named Ms Pollard as the primary retaliator, in a communication copied to her, on 10 December 2020, prior to her placing me under investigation. The records released to me in this "investigation" clearly demonstrate that I was correct that all that has happened in response to my reports is that the UN management and member states have asked the Chief of the Human Rights Council Branch, the very individual who put the policy in place in 2006 and has repeatedly lied about it both internally and externally, to explain. He has actively misled them to cover up his misconduct, and even though his stories contradict one another, no investigation has ever been conducted. For example, he informed the [redacted] delegation that the automation of the accreditation process somehow prevented names being handed to China, which is atently untrue (Annex 21 - kindly note that, despite insinuations, the report to the [redacted] delegation was made by a former staff member whose advice I had sought on how to make UN managers look at the substance of my reports rather than my level in the hierarchy). In these circumstances, reports to further external entities, notably national parliaments, ombudspersons and the press, were required. As the UN has repeatedly lied about this policy both internally and externally, it is not in the circumstances unreasonable to provide specific evidence that I have, at all stages, told the truth.

D. The UN has repeatedly misrepresented the policy publicly, internally and in closed-door meetings, so I have an obligation to warn human rights defenders of the real policy to allow them to take informed decisions about their own safety and that of their families

53. When my internal reports from February 2013 did not lead to any chan e in olic I reported the policy externally to the EU delegation in late 2013, specifically to [redacted]. She was extremely concerned, and indicated that she would report it to her superiors. A working level meeting was called with the Chief of the Human Rights Council Branch, at which all EU delegations were present. Three separate persons present [redacted] and diplomats from two delegations who had attended the meeting) independently reported to me that Mr. Tistounet vehemently denied the existence of the policy, calling any claim names were being handed to China a slanderous attack on his character, in a similar manner to his efforts in his internal communications and the present "investigation" to misrepresent my factual statements about

a policy he implemented as some kind of personal attack. Mr. Tistounet then outlined to the gathered diplomats the standard policy applied to all other delegations, falsely stating that it also applied to the Chinese delegation.

54. If Mr. Tistounet genuinely believed himself to be applying the rules of the Human Rights Council in ordering names handed to the Chinese delegation, or exercising a discretion he considered to be his, he would have no reason to deny it. It is precisely because OHCHR is aware of the danger of the policy that it continues to misrepresent it. It is of note that this meeting was held in late 2013, prior to any claim of any change in the policy. Mr. Tistounet's deliberate misleading of EU delegations has never been investigated, despite my reports of misconduct. My GDPR request to the EU and individual EU member states represented at the meeting, including for minutes of the meeting, which necessarily referenced my reports, remains outstanding. I will provide this information in a follow up statement once received and consider that any attempt to proceed with the disciplinary process absent this relevant evidence would represent a breach of due process as it prevents me from presenting exculpatory evidence due to a time constraint not appearing in any rule or statutory instrument in circumstances when I have no control over the timeframe for provision of such evidence.

55. In January 2017, I was contacted by a journalist who claimed to have received Ethics Office documents. I immediately reported this to the Ethics Office, to OIOS and to OHCHR communications staff, as I did not want any public reporting on my case. Having received no assurance my employer would respect its duty of care towards me as a staff member, on the deadline given by the journalist, I contacted his editor and refused permission to use my name in any story (Annex 22). This successfully prevented publication.

56. In early February 2017, Ethics Office documents from my case were published on the website of Mr. Peter Gallo, a former OIOS investigator. Mr. Gallo has re eatedl confirmed that I was not involved in this leak. In response to information [redacted], both Innercitypress and the Government Accountability Project (GAP) published articles on their websites. As noted by the judge who heard my cases, and contrary to defamatory statements made without any supporting evidence whatsoever by interviewees in the present "investigation," "there is no evidence that the A licant was involved in the leak of the documentation, [redacted] and there is no evidence of any other misfeasance by her."[20] Purportedly in response to these articles and a tweet by UN Watch, OHCHR published a false and defamatory press release on 2 February 2017 (Annex 23).

57. The press release contains a number of false statements regarding the policy of handing names to the Chinese delegation, which OHCHR knew were false at the time of its release, as well as a number of statements designed to mislead the reader into a false belief that protective measures were taken. As this was the first public mention of my case by my employer, and the first public defamation of me, it is worth examining it in some detail.

58. The press release states that, of the four names transmitted in March 2013, "All four of them were residents of Europe or the United States." While this is not untrue per se, it was not a fact that was known to Mr. Tistounet on 11 February 2013 when he gave the instruction to hand names to the Chinese delegation; at that stage, nobody in OHCHR knew which persons on the list would attend. Their place of residence was not checked. Notably, OHCHR is in this press release effectively claiming credit for my disobeying orders in later sessions held in June and September 2013. I had revealed my disobedience of orders to [redacted] in January 2017, and therefore must presume that it was she who included this misleading information in the press release (Annex 24). I note that the UN has never complied with the Order of the Tribunal to provide all communications relating to the drafting of the press release, a fact that was criticised by the presiding judge during hearings.[21]

59. The press release states that the individuals whose names were transmitted "made public their plans to attend the Human Rights Council session, at several points beginning with a press release on 27 December 2012." One of the individuals whose name was transmitted, Mr. Dolkun Isa, provided sworn witness testimony that this is untrue. He explicitly stated "I can confirm that our NGO did not release the names of individuals who would be attending the

[20] Hearings of 12 June 2019, from 14:10.

[21] Hearings of 11 June 2019, from 00:05.

2013 Human Rights Council ahead of the event. The OHCHR press release refers to a press release from our NGO from 27 December 2012. I can provide a link to that press release,[22] it did not mention the names of the participants who would take part in the announced event and did not mention participation in the Human Rights Council. We did not release the names of the individuals from our NGO who would be attending ahead of the start of the Council session" (Annex 15, para. 3).

60. The press release goes on to state "Chinese authorities, and others, regularly ask the UN Human Rights Office, several days or weeks prior to Human Rights Council meetings, whether particular NGO delegates are attending the forthcoming session. The Office never confirms this information until the accreditation process is formally under way, and until it is sure that there is no obvious security risk." While containing only one direct lie, these two sentences seek to mislead the reader in five ways.

61. First, this exceptional policy applied only to the Chinese delegation. The Turkish delegation sought information about the accreditation status of individuals in September 2012, and was refused (Annex 1). The Chinese delegation's request at the same session was granted (Annex 3). The UN has refused to provide any evidence that the policy at any time applied to any other delegation, and no one involved in application of the policy is aware of such (Annex 25; Annex 26 at para. 20).

62. Second, the statement that the "Office never confirms this information until the accreditation process is formally underway" is essentially a tautology. As OHCHR has not mastered time travel, it would be impossible for OHCHR to tell the Chinese delegation who applied for accreditation prior to those individuals applying for accreditation.

63. Third, the use of the word "confirms" is incorrect. The Office is not confirming information already known to the Chinese delegation, it is providing information not known to that delegation. The Chinese delegation would have no reason to request this "favour" from OHCHR (Annex 2) if the information was already known.

64. Fourth, the order of events is reversed, which is a direct lie. The actual sequence of events, as demonstrated by the written record, was:

    - Names of the four individuals who had in fact applied for accreditation from the list of thirteen names about whom the Chinese delegation inquired were given to the Chinese delegation;
    - The Chinese delegation made allegations that the persons were terrorists who posed a security threat;
    - The allegations were transmitted to UNOG Security to determine whether the individuals in fact posed a security threat;
    - The decision that they did not pose a security threat was transmitted to the Chinese delegation.

65. Fifth, the statement that "The Office never confirms this information … until it is sure that there is no obvious security risk" is designed to invite the reader to conclude that the reference is to the security of the individuals applying for accreditation, which is not the case. The only security assessment ever conducted is the security of Chinese and other delegates from those individuals. This assessment of the danger posed by the individuals is accurately detailed in the following paragraph of the press release, but is presented as being a separate assessment, again inviting the reader to conclude that the security assessment referred to in the earlier paragraph is an assessment of security of the individuals, when in reality no such assessment was ever conducted.

66. The press release continues "Additional precautionary measures triggered by the allegations include a warning by the UN to the concerned individuals that such allegations have been made against them." This is untrue. No such warning was given, as confirmed in the witness statement of Dolkun Isa, who expressly states "At no point before or during the Human Rights Council were we informed by OHCHR that the Chinese Government had been informed that

[22] https://www.uyghurcongress.org/en/conference-announcement-chinas-new-leadership-challenges-for-human- rights-democracy-and-freedom-in-east-turkestan-tibet-and-inner-mongolia-in-geneva-11-13-march-2013/

we would be attending the Council session. Nor were we informed of any allegations of terrorism made by the Chinese Government about us" (Annex 15, para. 4).

67. The press release goes on to claim "specific additional vigilance by UN security to ensure no harm comes to the concerned NGO while they are on UN premises." This is false. No such specific vigilance was requested or provided in March 2013. Furthermore, it misrepresents the danger of which I warned. The concern was not danger to the individuals on UN premises, which have strict security protocols. It was that efforts would be made by the Chinese government to prevent them attending the session, including through intimidation and potential human rights abuses against their family members still in China. A small proportion of the known reprisals taken by the Chinese government against individuals and their families for cooperation or attempted cooperation with UN human rights mechanisms are detailed in annual reports of the Secretary-General to the Human Rights Council (a majority are not included to prevent further exposure of the individuals to reprisal), so these concerns were not unwarranted.

68. For example, in February 2013, I expressly warned Mr. Tistounet that two of Ms. Rebiya Kadeer's children were then held in detention and had previously been tortured in an explicit effort to prevent her from speaking out (see para. 24, above). In fact, many more of her family members were by then in detention, but as she was never contacted, I had to rely on public information. Again, the witness statement of Mr. Dolkun Isa confirms the very real dangers of which I warned:

> "I can confirm that four individuals from our NGO attended the Council session. None of these were resident in China but three of the four attendees have direct family members who still reside in China. One has approximately 30 family members in detention in China. I have my parents and brothers and sisters who resided in China in 2013.
>
> From time to time my parents have been pressured by Chinese police when I do meetings. They are monitored 24 hours and have been asked by the authorities to call me and tell me not to do political advocacy. For the last two years I have been unable to get any information about my family in China. I am aware that my mother, who was 78 years old at the time, was detained by the Chinese authorities in 2017 and died in custody. Some international media reported that she had been detained for a period of around one year. I am unable to get any information regarding my father who is 90 years old and do not know if he is still alive.
>
> The Chinese Government have a record of attempting to obstruct any political activities I engage in if they find out about them in advance. For instance, in 2009 I attended a conference in South Korea and was detained as a result of an intervention by the Chinese Government. I was detained for a period of three days and then deported to Germany. In 2017 when I attended the Italian Senate I was detained by about 20 police officers who took me to the police station and detained me."

69. Regarding the case of Ms. Cao Shunli, the press release states "After she was detained, the Office closely followed the matter and drew the attention of the President of the Human Rights Council to Ms. Shunli's case" (all references in the present document are to the press release as issued. Ms. Cao's name was later corrected in the online version . This is untrue. In fact, the Presidency was directly informed by a representative of the [redacted] of Ms. Cao's disappearance on 16 September 2013. OHCHR remained unaware of this effort to engage the President until 25 September 2013, when the NGO requested an update on actions taken at a public meeting of President with NGOs, at which I represented the Human Rights Council Branch. Only following that meeting, and on the request of the President, did Mr. Tistounet instruct me to prepare a note for the President (Annexes 27 and 28). In reality, Mr. Tistounet actively tried to reduce the proposed engagement of OHCHR on Ms. Cao's disappearance, intervening in an email chain to suggest it would be inappropriate for the then Deputy High Commissioner to raise her disappearance with the Chinese Ambassador at a pre-scheduled dinner held on 26 September 2013, only twelve days after Ms Cao's disappearance (Annexes 29 and 30). Apparently as a result of Mr. Tistounet's intervention, the issue was not raised by the then Deputy High Commissioner.

70. The press release of 2 February 2017 thus significantly misrepresented the policy in fact applied, but expressly stated that names continued to be handed to the Chinese delegation upon request. This was contrary to my understanding at the time, when I believed the policy

had changed as a result of my reports, but the then High Commissioner, Prince Zeid Ra'ad al Hussein, confirmed in writing on 14 March 2017 that the policy indeed remained in place, explicitly stating that "the policy on informing governments of the attendees of Human Rights Council sessions is accurately expressed in the press release" (Annex 31, para. 5).

71. Two weeks later, on 29 March 2017, Mr. Tistounet again expressly denied the existence of the policy, this time in a public meeting at which he explicitly represented the UN. He claimed no names were ever handed over, and that to suggest otherwise was part of a right-wing conspiracy against the UN.[23] A translation of the denial is included as Annex 32.

72. In May 2017, the UN's public story changed. While the UN had publicly admitted the policy of handing names to the Chinese delegation was ongoing in February and March 2017, in a letter to UN Watch of 31 May 2017, Mr. Vladlen Stefanov claimed "As to your questions about our current policy and practices, we wish to be completely clear on the core issue: the UN Human Rights Office does not confirm the names of individual activists accredited to attend UN Human Rights Council sessions to any State, and has not done so since at least 2015. While our prior practices did allow for confirming names in limited circumstances, when there was no security risk, at no time did the action of this Office endanger human rights activists, including in the cases you mention."[24] This contradicts the rationale for the policy that the list is somehow public and thus that transmission of names cannot be refused. There is no basis for the statement that this occurred in "limited circumstances," unless the intention is to communicate that the policy was limited to the Chinese delegation, which is true. There is certainly no basis for the statement that there was no security risk (see paras. 23-25, above) and that the action of the Office did not endanger human rights activists, as OHCHR is fully aware of specific consequences of this policy, and yet no investigation whatsoever of the policy and its impact on human rights defenders whose names were handed over has ever been conducted.

73. Interestingly, the letter to UN Watch notes that their "allegation that the Office's earlier practices exposed activists relies on the contention that a State knowing 'in advance of the session' that someone would be attending the Human Rights Council might have increased their level of risk." This is a pertinent point. The examples I provided above, of Ms. Rebiya Kadeer (whose name was among those handed over in March 2013) and Ms. Geng He in fact relate to instances of torture specifically intended to prevent persons speaking at a future date. This is indeed the contention - providing information in advance to the Chinese delegation about precisely which dissidents plan to speak out endangers their family members still in China, who may be intimidated and subjected to human rights abuses to prevent them speaking out. The witness statement of Mr. Dolkun Isa, whose name was transmitted on numerous occasions, and whose family members were forced to call him to tell him to stop his advocacy, confirms the accuracy of this contention. Similarly, the sophisticated hack of the World Uyghur Congress which followed only days after OHCHR passed information on members of the NGO to the Chinese government may well be linked to the knowledge provided.[25]

74. On 30 August 2017, the former High Commissioner directly contradicted his memo to me of March 2017, claiming in a letter to Human Rights Watch:

> "Prior to sessions of the Human Rights Council, the Secretariat often receives communications from States, including from the People's Republic of China, listing some individuals who according to their information plan to attend or may be attending sessions of the Human Rights Council and who may represent possible threats to the United Nations. The Secretariat transmits these requests to the Safety and Security Service of the United Nations Office at Geneva, who are responsible for the security of all participants of the Human Rights Council sessions at the Palais des Nations, for their assessment. Once UNOG has assessed that there is no evidence to back up the allegations, the Secretariat of the Human Rights Council informs the concerned State of this conclusion. No other

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[23] Mr. Tistounet's outright denial is available online here (from 39 minutes): https://www.youtube.com/watch?v=ZmxNji05ZJg

[24] https://unwatch.org/wp-content/uploads/2009/12/OHCHR-response-to-UN-Watch-on-reprisals-30-May-2017.pdf

[25] *WUC Warns of Pre-Conference Email Hacking*, World Uyghur Congress, March 5, 2013, available at: https://www.uyghurcongress.org/en/wuc-warns-of-pre-conference-email-hacking/

information is transmitted to the State. The individuals referred to in the communications from the State are free to seek accreditation and/or attend the sessions of the Council should they wish to do so."

75. This statement lays out the standard policy applied when other States requested information as to whether specific individuals had applied for accreditation, but is inaccurate as regards communications from the People's Republic of China, which was, on the instructions of Mr. Tistounet, directly and immediately provided with information on the accreditation applications of individuals. The High Commissioner had reiterated his knowledge of this fact in his memo to me of March 2017, and so it appears he knowingly misled Human Rights Watch when he falsely stated that "no other information is transmitted."

76. In August 2018, the Dutch government announced it would award a human rights prize worth €100,000 to Prince Zeid, explicitly for his work as High Commissioner for Human Rights. Ms Miranda Brown wrote to the Dutch government objecting to this award on the basis that it represented corruption of a UN official, and on the basis of Prince Zeid's retaliation against three whistleblowers, myself, Mr. Anders Kompass and Ms Brown. I and Mr. Kompass were copied on the letter, but were not signatories to it. In response to this contact by a third party, the Dutch government asked OHCHR about my reports, but unfortunately made no effort to contact me to verify the veracity of responses. OHCHR lied to the Dutch government that no names were handed to China, and repeated the defamation that my claims in this regard were "unsubstantiated." Because governments, unlike UN managers, are subject to laws, the evidence was considered. Following an appeal by myself and Ms Brown, the Dutch Foreign Minister corrected the parliamentary record on 18 January 2019,[26] and we won a court case, at which I represented both myself and Ms Brown, which required the former Dutch Ambassador to the UN to correct his tweet on the issue.[27] This is demonstrative of the disregard for the truth shown by OHCHR throughout this unfortunate saga, which could have been avoided by simply conducting the investigation required under international law.

77. Before the UN Dispute Tribunal, the position of the UN is: "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" (Annex 33, para. 115).

78. At hearings held in June 2019, UN lawyers affirmed this position, and referred extensively and positively to the 2016 determination of the Ethics Office, which explicitly found that the secret policy of handing names of individuals to the Chinese delegation without their knowledge or consent was incapable of constituting misconduct because (1) all senior managers are aware of the policy and yet it never stopped; and (2) Mr. Tistounet would in any case have discretion to share names of human rights defenders with the Chinese delegation because Mr. Anders Kompass had discretion to share names of child victims of sex abuse with the French government in order to enable investigation of a crime.[28] The UN also reiterated its position, initially advanced by Mr. Tistounet in 2013, that the list of participants is somehow public weeks in advance of Human Rights Council sessions, and thus that the request from the Chinese delegation cannot be resisted. These court positions are clearly inconsistent with any claim that the policy changed. The duty of candour and my right to due process would have required the UN to provide information in its possession that contradicted its court position that this policy has been in place since 2006 and has never changed.

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[26] See https://zoek.officielebekendmakingen.nl/ah-tk-20182019-1234.html and https://zoek.officielebekendmakingen.nl/ah-tk-20182019-1235.html (Dutch language).

[27] The judgement is here: https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2021:931&showbutton=true&pk_campaign=webcare&pk_medium=social&pk_source=twitter&pk_content=uitspraken-en-nieuws
The corrected tweet is here: https://twitter.com/KvanOosterom/status/1370420930468589576

[28] It is of note that the UN Ethics Office did not make an ethical distinction between information sharing that places someone in danger and information sharing for the purposes of protecting victims of crime and enabling accountability of perpetrators.

79. On 1 November 2019, the Human Rights Council spokesperson lied in response to a question from a journalist that referenced my name, that OHCHR would "never, ever dream" of handing names of human rights defenders to the Chinese delegation, explicitly because of the obvious danger in which this would place them.[29] My complaint about this blatant lie and defamation remains without response (Annex 34).

80. On 26 February 2021, the Secretary-General's spokesperson had the following exchange with a journalist:

> Question: I read in The Epoch Times that leaked email... what I want to know is, did the UN give the names of China's dissidents, as written in that article?
> Spokesman: To where?
> Question: To the Chinese. Leaked emails confirm UN gave names of dissidents to CCP.
> Spokesman: No. That is not true.
> Question: Never?
> Spokesman: No.[30]

81. My complaint about this blatant lie and defamation also remains without response (Annex 35).

82. On 3 March 2021, the Secretary-General's spokesperson directly contradicted his position of only a week earlier, in response to a query from the same journalist, because I had made public an email in which a name was indeed handed over to counter his deliberate defamation. That exchange was as follows:

> Journalist (Célhia de Lavarène): Stéphane, a woman named Emma Reilly, who works for the Office the United Nations High Commissioner for Human Rights (OHCHR) and is a human rights lawyer, has repeatedly alleged that the human rights office in Geneva shared the name of Chinese opponents with the Government... China's Government, and she said that this is the only exception that the UN has made. Is that true?
>
> Stéphane Dujarric: No. We don't agree with her description of our policies. Contrary to her claims, at no time has any activist been placed at risk by the human rights office's practices of responding to inquiries from Member States requesting for confirmation of the names of activists accredited to attend the Human Rights Council sessions. Since the start of the Human Rights Council in 2006, the Office of the High Commissioner for Human Rights stopped providing lists of those accredited to attend. Instead, in response to specific inquiries from Member States regarding names of individuals, the Office confirmed the names of well-known people for whom confirmation of their names presented no additional risk, given that they were already in the public domain. From 2015, given the limited nature of the practice, the Office ceased providing confirmation to Member States that individuals were accredited to attend sessions

83. Once again, the UN cannot claim that nobody was placed at risk when it did not inform people their names were being handed over, and has consistently refused to inform them, to respond to queries as to whose names were handed over, or to conduct any investigation whatsoever of the policy and its impact. The Secretary-General's spokesperson introduces a new, false, claim of protective measures, now stating that everyone's name that was ever transmitted was both well-known and already in the public domain. This is both demonstrably false (students, interns and others were on the lists, and none had ever advertised their attendance), and contradicts the initial justification and UN court position that the request cannot be resisted under any circumstances. Once again, my complaint about this blatant lie and defamation has been ignored (Annex 36). However, the response is indicative of a recent pattern whereby every time the UN publicly discusses this policy, both the public status of the victims and the alleged protective measures increase incrementally.

84. The reason for this constantly changing story is clear from the evidence provided in this "investigation." Not only has the UN never conducted any investigation of the policy whatsoever, but all that has ever happened in more than eight and a half years of consistent reports is that UN managers have handed the entirety of my reports to Mr. Tistounet for him to write responses or talking points. Essentially, the UN has tasked the very person with the

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[29] See https://www.foxnews.com/world/un-human-rights-office-china-dissidents

[30] Video here: https://twitter.com/UNWatch/status/1366438934184656900
Transcript here: https://www.un.org/press/en/2021/db210226.doc.htm

greatest motivation to cover up his own misconduct with determining its public position and strategy.

85. The Administration's legal position before the UNDT relies entirely on this policy being both ongoing and public. If the list of participants of a public meeting is by definition public weeks in advance, as claimed by Mr. Tistounet to justify the policy on 11 February 2013, and as claimed by the UN lawyers before the Tribunal, then my publicly confirming the policy is an affirmation of an existing UN public position, which cannot constitute unsatisfactory conduct. I have in all cases accurately described the policy exactly as it applied in 2013 and exactly as the UN claims it is still applied in court. I am, notably, not charged with making any false statement at any time.

86. The UN Administration cannot have it both ways - either this policy still applies as claimed in court, in which case it is public, or it is a secret policy about which no public information may be emitted, in which case the Administration effectively recognises that it is knowingly exposing people to danger without their knowledge or consent.

87. The principle of "do no harm" is at the centre of human rights work. As noted above, Mr. Gomez, who labelled my claims in interview as "preposterous," claiming to be unaware of the policy actually applied despite my directly sending him evidence of it, immediately realised that such a policy would be dangerous, and for this reason falsely, publicly claimed that OHCHR would "never, ever dream of actually divulging names" to the Chinese delegation. The documentary evidence is clear - this is precisely what happened, and this policy remains in place.

88. Under the OHCHR code of conduct, I am required to "Refrain from endangering, by way of … words or action during or after [my] service with the OHCHR, the safety and privacy of the people with whom [I] come into contact" (para. 11). It is a general principle of legal interpretation that actions may include deliberate inaction and words may include deliberate silence. Passing names of human rights defenders planning to engage UN human rights mechanisms to a government with a long and well-documented history of reprisals against human rights defenders precisely for cooperation with UN human rights mechanisms without their prior, informed consent is dangerous, and removes from them the agency to take decisions about what level of risk they consider acceptable for them and their families. I - and every other staff member who was aware of this policy since 2006 - have an obligation to inform human rights defenders of the true OHCHR policy, which OHCHR claims is public, to enable them to take informed decisions. This is analogous to the requirement that OHCHR staff seek prior, informed consent for all possible future uses of information, especially identifying information, obtained through interviews with victims, witnesses and others.[31] OHCHR did not seek the prior, informed consent of the individuals to the sharing of their personal information with the Chinese delegation, and I was in fact refused permission to do so.

E. The UN has repeatedly lied about and defamed me personally and I have a right to correct lies and defend myself against defamation

89. The final paragraph of the press release actively seeks to discredit me as the source of the reports. It reads:

> "GAP and the Inner City Press also refer to a staff member at the UN Human Rights Office in relation to this case, who they assert is a whistle-blower and who they allege suffered reprisals at the hands of the Office. In fact, the staff member has never faced reprisals. The staff member has had her contracts renewed and remains employed by the organization on full pay. She has made allegations against various managers. These have been taken seriously, leading to two separate independent investigations that have been carried out to determine whether or not there is any substance to her allegations. In both instances, the claims made by the staff member were found to be unsubstantiated."

[31] For example, the OHCHR Manual on Human Rights Monitoring is explicit that, when interviewing victims, witnesses and others, investigators should "seek informed consent to use and/or share information". Accessible at: http://www.ohchr.org/Documents/Publications/Chapter11-MHRM.pdf, p.4.

90. It is of note that, in a press release wholly dedicated to describing or, more accurately, obfuscating, the OHCHR policy of providing names of human rights defenders to the Chinese delegation, the Administration chose to refer to two unrelated investigations. These investigations were (1) an investigation into my allegations of harassment and abuse of authority relating to performance evaluation and selection procedures; and (2) an investigation into Mr. Tistounet for accepting favours with financial value from the Moroccan delegation, which paid for his private book launch. The inclusion of such unrelated information can only have been intended to mislead the reader into believing that my reports of the policy of handing names to the Chinese delegation had been investigated, when in fact no investigation has ever been carried out. The intention was also to discredit me as the source of the reports and thus to discourage reporting.

91. The inclusion of this information raises two main issues; breach of confidentiality and defamation. I followed all internal rules and procedures when I was contacted by the journalist in January 2017, seeking to avoid my name from appearing in the press, as I was concerned that the internal defamation to which I was already being subjected would be repeated externally. I did not consent to confidential information about internal investigations being shared with the world's press, and as a matter of policy the Administration has no power under the rules to lift confidentiality.[32]

92. The defamatory intent of this paragraph is clear. There is no doubt that it was deliberate. While an earlier version of the press release stated simply that my contracts had been renewed, the language was deliberately strengthened, at the suggestion of Mr. Andrew Gilmour, former Assistant Secretary-General for Human Rights, with the aim of discrediting me (Annex 37). It was confirmed to me by Mr. Rupert Colville that this was part of a deliberate strategy to prevent reporting on the story by discrediting me as the source (Annex 38). Mr. Colville in fact boasted that he used this strategy because he found it had worked in "killing" stories about OHCHR's role in covering up and failing to act upon child sex abuse in the Central African Republic. In that case, he had continued to defame Mr. Anders Kompass to the press as "dishonest", "duplicitous", "shitty" and "in bed with the French" years after an independent investigation exonerated Mr. Kompass and criticised the "single-minded determination" with which he had been pursued by the former High Commissioner for Human Rights (Annex 39). The Administration failed to take action on my reports of this clearly unsatisfactory conduct, which is perhaps indicative of the double standards applied to my case in general.

93. The statement that my reports were unsubstantiated is false. The UNDT has already confirmed its falsity as regards the substantiation of my complaint about abuse of authority relating to my performance evaluation (Judgment No. UNDT/2021/093). While for unknown reasons the UNDT simply did not examine the second investigation, into Mr. Tistounet accepting financial benefit from the Moroccan delegation, the evidence is incontrovertible - the event was advertised using the professional functions of both individuals (Annex 40) - and the investigation resulted in an investigation report, and not a closure report as would be the case if it were unsubstantiated (Annex 41). ALD will be better placed than I to examine the accuracy of this statement, having access to the report itself. Despite its recent campaign on the importance of truthful public statements, the Administration has declined to respond to all of my requests for correction of this false information that it deliberately put into the public domain.

94. It is of note that the panel chose to interview almost exclusively persons directly involved in drafting the press release, which the UN Dispute Tribunal has now confirmed broadcast false information about me directly to over two million people, and indirectly to many more. Of the five persons interviewed, evidence on file in that case conclusively demonstrates that four (Mr. Rupert Colville, Mr. Rolando Gomez, [redacted] and Mr. Eric Tistounet) were intimately involved in drafting the press release, including the section containing false information about me. The panel appears not to have considered how the fact that these individuals deliberately and knowingly lied about me in an effort to discredit my reports in a public press release intended to reach the widest possible audience may have impacted on their motivations or affect the weight to be accorded to their evidence in the present investigation. The fifth interviewee was the author of the complaint which gave rise to the

[32] The presiding judge discussed this issue from the bench: Hearings of 11 June 2019, from 00:31.

investigation, and himself to have acknowledged the arising conflict in his email responding to the panel's request to interview him, which was attached to the investigation report.

95. The defamation and circulation of false and offensive information about me has not been limited to the press release. As the file included evidence that OHCHR had been in contact with the [redacted], I contacted the NGO (a simple step that the investigators omitted to do), and discovered by exercising my freedom of information rights that from early 2017 Mr. Tistounet and staff directly under his supervision have actively contacted [redacted] on a number of occasions, falsely stating that I have said Ms. Cao Shunli's name was transmitted by OHCHR to the Chinese delegation, and encouraging [redacted] to tell journalists that I lied about this. I never, at any point, made any such statement. I asked simply that the issue of whether or not Ms. Cao's name was transmitted be subject to investigation. Indeed, the Director of the UN Ethics Office asked that I transmit information on how this may be determined to her, specifying that I should do so from a non-UN email address and non-UN computer, which I did (Annex 42). I have requested, but not been provided with, a full list of NGOs or other entities and individuals to which this lie has been repeated (Annex 43).

96. Mr. Tistounet has also taken active steps to negatively impact my reputation internally. While OHCHR human resources threatened me with unspecified disciplinary measures should I continue to ask why my former supervisors, who had positively reviewed my performance, were being called into meetings encouraging them to change their reviews to state that I was a bad team player (Annex 44), this was in fact confirmed by the investigative panel. Indeed, the panel confirmed that the meetings were called by Mr. Tistounet, the head of Administration in OHCHR, and the Chief of Human Resources (Annex 45). This indicates that there was and is an active internal campaign of defamation to prevent investigation of my reports.

97. Before 10am on his first day out of office, the former High Commissioner defamed me on Twitter, calling me a "self-appointed whistleblower" and falsely claiming that I had been promoted in a transparent effort to undermine factually correct claims that I had been subjected to retaliation. It is indicative of how normalised defaming and insulting me in the workplace had become even by September 2018 that a former senior official felt it appropriate to immediately defame me in his personal capacity upon leaving office. It was clear from OHCHR's refusal to even contemplate correcting false information in its press release of February 2017 that my employer would not protect me from defamation for doing my job and reporting wrongdoing, and so I created a Twitter account uniquely to respond to this latest defamation (Annex 46). By the time the UN engineered the removal of Judge Downing after he had heard my cases and drafted judgement, [redacted], but before he could publish such, I had tweeted a total of 15 times. The removal of a judge in such a manner which he has himself stated on the record is never seen in a state with rule of law [redacted] confirmed that the Administration would go to extraordinary lengths to prevent judgement in my favour that could require amendment of the false and defamatory press release.

98. This normalisation of abusive language, personal insults and false commentary about me is also evident in the interviews conducted in the present "investigation," where my requests that spokespersons stop publicly lying about me and about my reports are relabelled "hate messages,"[34] a label that is subsequently simply accepted despite nobody ever asking to see the offending email, which in reality detailed the factual errors in a statement made about me by the spokesperson (Annex 47). Senior UN officials frequently seek to deform the actual power relationship, ignoring their own, very public, lies about me to a large audience in favour of focussing on my "tone" or "body language" when I have the temerity to request that my employer tell the truth in public or consider investigating a dangerous policy about which it cannot get its public story straight.

99. The Administration's own witness admitted that the UN provided false information to the former Special Rapporteur on Freedom of Opinion and Expression, confirming under oath that the Chef de Cabinet's claim that my assignment in Mauritania constituted a protective

[33] [redacted]

[34] Panel annex 5.4.1.

measure was in fact false.[35] The commitments made in the Chef de Cabinet's letter that the Administration would take protective measures upon my return from assignment were also false. No such measures were ever taken.

100. On 2 April 2018, in response to recommendations of the Ethics Officer, the UN Secretary-General directly intervened in my case, instructing the former High Commissioner for Human Rights to transfer me to a mutually agreeable position and mediate my case (Annex 48). The former High Commissioner, responding on 30 April 2018, simply lied in his response, falsely claiming that I had been offered a position but expressed some objection, and falsely claiming that I had refused mediation (Annex 49). Neither statement is true. Even UN lawyers admitted in court that they could not resolve the "ambiguity," to which Judge Downing responded that it speaks for itself.[36] The instructions of the Secretary-General, including those addressed to the very Under-Secretary-General who placed me under the present investigation, and the very Assistant-Secretary-General who will decide on the (obviously pre-determined) outcome of the present investigation, remain unimplemented. Both refuse to address their obvious conflict of interest.

101. It is of note that the investigators in the present case did not ask for the response of OHCHR to the queries by member states, but merely noted the existence of such queries. It is clear, however, that OHCHR has repeatedly misled member states about my reports and about me personally. This is clear from my victory in the Dutch courts, when the Dutch Foreign Minister repeated OHCHR lies (see para. 76, above). This is also clear from communications between the [redacted] overnment and Miranda Brown: It is in fact Ms. Brown who contacted the [redacted]. I discovered this after I was presented with the hearsay accusations in the present investigation that I had done so. It is perhaps indicative of the quality of "investigation" that every suspicion against me, no matter the clear motivations of witnesses to discredit me, or even direct insults of my character by the same witnesses, was simply noted as fact without any effort at enquiry whatsoever. In communications with Ms Brown, the [redacted] representative indicates that Mr. Tistounet falsely asserted that the automation of the list of speakers (which I implemented) would somehow preclude providing names of human rights defenders to the Chinese delegation in advance, when in fact there is no relation between the two whatsoever (Annex 21). It is of note that the [redacted] government seemed unconvinced by OHCHR's response, and explicitly asked Ms Brown to continue reporting to them the real situation.

102. The UN Administration has simply ignored all of my reports of wrongdoing, and refuses to apply its own rules in my case. This was confirmed in Judgment No. UNDT/2019/094, which expressly found that the Secretary-General had unilaterally decided not to apply the rules in my case (para. 50), but it is a general pattern. For example, the policy on protection against retaliation provides no mechanism by which investigation may be avoided following a prima facie finding of retaliation, and no mechanism by which the Administration may overturn such a finding, yet the Administration has done both in my case (See my UNDT Application at Annex 50). The Administration also shut down an independent audit upon discovering my case would be used as the primary example of the failure of all internal systems to protect whistleblowers (Annex 51). Rather than ever making any good faith attempt to resolve this issue or even contemplate investigating the harms caused by its own policy of handing names to the Chinese delegation, the Administration instead engineers interminable, bureaucratic processes which it then subverts at the last moment if, after years of waiting, they begin to go in my favour. No internal mechanism actually functions when the wrongdoing is at the level of senior managers, so the only way to defend my reputation or attempt to mitigate the damage deliberately inflicted is to respond to public lies, misinformation and defamation with public truth.

103. In sum, the UN Administration has deliberately and knowingly spread false information about me to the press, to all of my colleagues, to all independent UN human rights experts and treaty body members, to my former supervisors, to member states, to NGOs, to individual independent experts upon enquiry, and even to the Tribunals, but refuses to apply UN rules and investigate any of these instances. Instead, the Administration requires that I should simply absorb this public defamation and abuse in silence. Any frustration I may express at

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[35] Hearings of 4 June 2019, testimony of Ms Kim Taylor.

[36] Hearings of 4 June 2019, at 04:29.

being harassed and abused for eight and a half years simply for reporting wrongdoing is immediately pounced upon as a post-facto justification for ignoring all UN rules and regulations in my regard, not for any substantive wrongdoing, because someone actively involved in defaming me objected to my "tone" or "body language" when I asked them to stop lying.

104. The Administration argues in court that the UN Tribunals do not have jurisdiction over issues of defamation,[37] and thus the UN position is that there exists no forum in which I can challenge defamation by my employer, whether in the press release, in exchanges with member states, or in statements to the press. It is perhaps instructive to consider the position on this issue of the honourable judge who heard the case prior to his swift removal by the Administration when it became aware of the contents of his judgement:

> "You said that the Applicant had been busy on social media herself… You say that the Organization, when it believes it's defamed, has the right to respond, and to respond very quickly. It might well be that there's an obligation to respond very quickly, but it has a right to respond very quickly. Now, there is no evidence that the Applicant was involved in the leak of the documentation, there is no evidence that she was involved in [redacted], and there is no evidence of any other misfeasance by her. Could it not be said that her launching into social media and making responses is actually rather akin to the Organisation's response to what it perceived as being defamatory and incorrect?… What you're saying is that the Organisation has a right to respond, but you're critical of the Applicant when she seeks to respond."[38]

105. The honourable judge also commented on the Administration's objections to my seeking to correct the false information transmitted by the Administration to the Dutch Foreign Minister, which he in turn repeated to the Dutch parliament. That resulted in the following exchange:

> Judge Downing: "But may it not be said that her activities, say, with the Dutch parliament, that the Dutch parliament is misinformed, and that, if anything, the actions of the Applicant are actually by way of mitigation of the damage."
>
> UN lawyer: "But is this appropriate to do this on social media?"
>
> Judge Downing: "Well, is it appropriate to sit down and say nothing? The Organisation didn't sit down and say nothing, and went to social media."[39]

106. Essentially, the Administration claims an absolute right to defame and insult me in public and private communications as it sees fit in order to discredit me and thereby prevent unwelcome attention to its policy of handing names to the Chinese delegation.

107. I submit that this is not an accurate view of UN staff rights, and agree with the UN Secretary-General who, speaking through the Chef de Cabinet, noted in his letter of 2 April 2018 that "The Secretary-General has the responsibility to ensure that all efforts are made to provide staff with a harmonious work environment." In the absence of any attempt at implementation of the Secretary-General's instructions, or, as the Administration itself admits, any independent forum in which to have my complaints of defamation examined, it is not unreasonable that, as the Administration refuses to take any action to undo the reputational damage it has deliberately inflicted since 2 February 2017, I take steps to undo it and correct the record myself.

F. Right of staff and/or whistleblowers to speak to press

108. In a letter to The Guardian of 21 January 2018, some eight months before I opened a Twitter account to respond to defamation by the former High Commissioner for Human Rights, Ms Jan Beagle, explicitly in her capacity as Under-Secretary-General for management, wrote "contrary to the article, the United Nations does not prevent staff from speaking to the media…"[40] No caveat of any type was applied to this statement.

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[37] Hearing of 12 June 2019, from 05:40.

[38] Ibid., at 14:10.

[39] Ibid., at 18:06.

[40] https://www.theguardian.com/world/2018/jan/21/un-is-dealing-with-sexual-harassment

109. During my second interview in the course of the investigation cited in Ms Pollard's letter of 10 June 2020, one of the panel members, [redacted], explicitly stated that this letter clearly meant that any staff member could speak to the press at any time. He in fact asked for my personal views on whether the Administration should limit this limitless right.[41]

110. In this context, it is strange indeed that in Ms Pollard's letter purportedly summarising the panel's findings, she seems to attempt to link the issue of being found to be a whistleblower with the issue of being permitted to speak to the press, contrary to Ms Beagle's announcement, which remains on the record and uncorrected and must therefore be presumed to apply. The relevant paragraph reads:

> "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."

111. It should be noted that one of my primary objections to that panel's interview, as noted in my line-by-line response to Ms. Pollard's letter (Annex 52) was in fact that the "panel investigation was subverted for the purposes of a fishing expedition to investigate me, abusing the opportunity of having me under oath. I objected in writing after my first interview that a panel allegedly investigating a 2017 press release instead focussed its questions narrowly on my 2019 contacts with the press. The tape recording of the interview confirms the focus. I presume the panel received instructions in this regard."

112. The alleged link between the possession of whistleblower status and a right to speak to the press was made even more explicit in the second instruction underlying the charges against me, that of Ms Nada al Nashif on 18 June 2020, which included the following exchange (Annex 53), emphasis added:

> Nada al Nashif: Regarding the interview with the panel, and in your interview with the investigation panel, you revealed that you are engaged with external parties. It starts in section 4 of the Secretary General's Bulletin concerning protection against retaliation, and comments made by the former USG, Ms Jan Beagle, that *in certain circumstances whistleblowers may communicate externally*. This does not apply to you, as the panel has confirmed *you have not been granted whistleblower status by the Ethics Office*.
>
> Emma Reilly: That is, that is also untrue, I was found to be a whistleblower on five separate counts.
>
> Nada al Nashif: This is what the USG of management has confirmed to us, you may take that up obviously as, again, you have the right to, and as you wish to see fit. In terms of staff regulations, which is the next point, you are *therefore* bound by your obligations as an international civil servant. Staff regulations 1.2.1, staff rule 1.2.t, you are not authorized to make comments to any external entity about these issues. Should you do so, you will be in breach of your obligations as a UN staff member. And I understand that you have been informed by the Under Secretary General for the department of management, strategy, quality and compliance, specifically of these obligations.

113. Thus, the position of the Organisation is that Ms Beagle's statement that the UN does not prevent staff members from speaking to the press should be interpreted as meaning that recognised whistleblowers may speak to the press, even where such communication may otherwise violate staff rules. While this is against every dictionary definition or regular use of the words "staff member," even with this caveat, I would still have been entitled to speak to the press, and make external reports of wrongdoing to member states, for the entire period to which the charges relate. It is of note that it flies in the face of legal interpretation and the concept of linear time for these senior officials to try to reinterpret section 4 of the policy on protection against retaliation (ST/SGB/2017/2/Rev.1) to mean that blowing the whistle externally requires both prior permission from the Administration and prior recognition as a whistleblower. One of the justifications for an external report provided in the policy is the likelihood of retaliation from the Administration.

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[41] Recording of second interview with panel.

114. At a town hall meeting in Geneva in December 2019, the Secretary-General was specifically asked about my case by a former WIPO staff representative. The Secretary-General reiterated his commitment to have a state of the art whistleblower policy, and not to see any whistleblower penalised (Annex 54).[42] He came back to the question several times during the meeting, at one point specifically addressing "the cases of retaliation… that were mentioned."[43] He said he had looked into it, that some of the cases were in the Secretariat and that in those cases measures had been taken to protect people. The only two cases mentioned during this meeting that involved Secretariat staff members were mine and that of Ms. Miranda Brown (who is no longer employed by the Organisation). The Secretary-General, who used the plural, therefore unambiguously announced to a full, public town hall that I was protected. This was and is not true. While the Secretary-General indeed ordered my protection in April 2018, I have not been protected at any stage. It is clear that the Secretary-General had been misinformed. As he had delegated authority for my protection in April 2018 to the Under-Secretary-General who placed me under this investigation and the Assistant-Secretary-General who will decide on (apparently pre-determined) disciplinary measures against me, this causes me great concern. I believe that a reasonable observer would perceive a conflict of interest in staff who have disobeyed direct instructions of the Secretary-General to protect a specific staff member subsequently deciding to discipline that staff member who has continued to report their non-compliance to the Secretary-General.

115. At our request, Ms. Miranda Brown and myself had a private meeting with the Secretary-General in the diplomatic lounge of Geneva airport on 25 February 2020 (Annex 55). During that meeting, the Secretary-General explicitly stated that he knew we were both whistleblowers who had fulfilled our duties as staff members in reporting misconduct, and were being subjected to ongoing retaliation. He claimed resolution of our cases would be "difficult," because he was himself facing public criticism from the persons who had led retaliation against us in the recent past.[44] He further stated that he had no control over OHCHR, despite it being part of the Secretariat that he heads, or even over the persons handling our cases, whom he did not name, but who appeared in context to have more direct reporting lines to him.

116. Ms. Miranda Brown has confirmed the content of the meeting in a witness statement, attached as Annex 56, and our subsequent email communications directly with the Secretary-General confirm that he did indeed try with "people in charge" to finally provide the protection he had ordered (Annexes 57-58). The Secretary-General's efforts to make staff obey his instructions in this regard appear to have failed, as they did in 2018, and he eventually stopped responding to our emails altogether.

117. The Secretary-General is the chief administrative officer of the Organisation, and holds a post superior to any other staff member. He speaks for the Organisation, and his position is the position of the Organisation. This is reflected, for example, in the fact that staff members who take cases challenging decisions of the Administration explicitly sue not the Administration as such, but the Secretary-General as the embodiment of the Administration.

118. The instructions I am charged with disobeying came from very senior staff, but such staff nonetheless ultimately report to and are accountable to the Secretary-General. The instructions of 10 and 18 June 2020 are both based on statements that I am not a whistleblower, but the Secretary-General himself had explicitly and unambiguously recognised me as a whistleblower in our meeting some four months earlier. I therefore sought instruction directly from the Secretary-General following the call from Ms. al Nashif as to whether I was indeed prohibited from publicly telling the truth about a policy that the UN claims in court is both ongoing and unproblematic (Annex 59). I received no response, and so continued to act based on the explicit and unambiguous recognition from the highest official in the organisation that I am indeed a whistleblower.

119. The issue of whether or not I could hold a reasonable belief that a UN staff member could potentially commit misconduct by breaching international human rights law, the explicit rules

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[42] Edited recording of town hall meeting, Annex 54, from 02:30.

[43] Ibid., from 05:21.

[44] The reference is apparently to this article: https://foreignpolicy.com/2020/02/04/un-chief-antonio-guterres-internal-criticism-human-rights/

of the Human Rights Council and UN rules in order to pass names of human rights defenders to the Chinese government without their knowledge or consent was resolved on 27 July 2020, when the Alternate Chair of the Ethics Panel of the United Nations issued his findings that I could reasonably hold that belief, and therefore that my reports since February 2013 are protected activities (Annex 16). The findings of the Alternate Chair in this regard are unambiguous and not open to misinterpretation. He notes, inter alia:

> "The management was naturally and perhaps primarily interested in good relations with the member state; the Complainant was interested in human rights and protection of human rights activists. OHCHR was, by virtue of the Complainant's whistleblowing, placed in a very awkward diplomatic position by a human rights issue that it struggled to handle well. A whistleblower's reporting of such a practice, which was contrary to fundamental UN principles and values, is exactly the sort of activity that must be protected; it is far more important than minor infractions of bureaucratic rules, which the system finds it much more easy to classify as protected."

120. This statement leaves no doubt whatsoever that the finding of the Alternate Chair was indeed that my reporting of the policy of handing names to the Chinese delegation was a protected activity. He openly criticised previous Ethics Officers for not finding it to be such. This finding was clearly and unambiguously in addition to the finding of another protected activity (my reports that former Deputy High Commissioner for Human Rights Kate Gilmore had misled the public and the UN about her qualifications, falsely claiming to hold two post-graduate degrees when she held none). It is at best extraordinary that, provided with the full content of this report, the investigators in the present case continued to present my statement that I had been recognised as a whistleblower regarding my reports of handing names to the Chinese delegation as a "claim" or "assertion." It is a fact, and the refusal of the investigators to recognise it as such in the face of incontrovertible evidence indicates bias, and raises the possibility of unlawful interference by the Administration in the fact-finding exercise.

121. The instructions of Ms Pollard and of Ms. al Nashif which I am charged with violating were clear and unambiguous that the sole and unique reason for which I was banned from revealing the policy to member states or the press was that I was not at the time (10-18 June 2020) formally recognised as a whistleblower by the Ethics Officers who had reviewed my case. Even if the statements of the Secretary-General himself are disregarded by the Administration he directs as having no value, I was, per this standard, a recognised whistleblower at latest by 27 July 2020.[45]

122. All charges of reporting the policy to member states or the press after this date cannot therefore breach the instruction I was in fact given and will not be addressed, beyond a note that no actual evidence against me is provided regarding a majority of the charges. Transcription of a simple suspicion voiced by an individual found by the UNDT to be involved in transmitting false information about me in a press release sent directly to all of my colleagues, independent experts, NGOs, member states, the press and the general public, with the clear intention of defaming me and discrediting my reports, is not in fact sufficient "evidence" to bring charges of misconduct against a UN staff member.

G. The panel investigating Mr. al Hussein and Mr. Tistounet did not investigate the policy of handing names to the Chinese delegation

123. At paragraph 5, the charge letter specifically states that I was informed by Ms. Pollard that I was "not authorized to engage with Member States or contact the media concerning the issues addressed in [the] investigation" into possible unsatisfactory conduct by Mr. al Hussein and Mr. Tistounet.

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[45] While the Administration - apparently in order to proceed with charging me with misconduct for protected whistleblowing - purported to find fault with the finding of the Alternate Chair and ordered it overturned by allegedly independent Ethics Officers, the policy provides no mechanism for such. In any case, the earliest notice I received that the Administration was claiming a right to unilaterally overrule findings of allegedly independent Ethics Officers that the Administration retaliated against a whistleblower was on 4 June 2021, some three months after the latest of the charges against me.

124. The evidence shows that Ms. Pollard limited the scope of the investigation into Mr. al Hussein and Mr. Tistounet. While I had indeed reported the policy of providing names to the Chinese delegation as misconduct, Ms. Pollard specifically instructed the panel not to investigate the policy. By email of 2 December 2019 (Annex 20), the panel informed me:

> "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."

125. Upon receipt of Ms. Pollard's claim that the panel had examined the policy in some way, I asked the panel simply to confirm this. They declined to do so (Annex 60).

126. Perhaps the clearest indication that the panel did not in fact investigate the policy is the fact that Ms Pollard, the responsible officer in both investigations, misstates the policy in her memo instructing the panel to investigate my actions. Ms Pollard demonstrates that she is unaware of the specifics of the policy. She suggests that:

> "in early 2013 the Chinese Mission to the United Nations presented the names of four activists known to the Chinese Government to the HRC Branch, alleged that they presented a security risk and requested OHCHR to confirm whether or not they were accredited to attend the upcoming HRC sessions."

127. This statement is demonstrably false. On 28 January 2013 the Chinese PM presented the names of 13 individuals to OHCHR asking whether they would travel to the Human Rights Council. OHCHR in turn informed the Chinese Government of the specific four individuals among the 13 who had in fact applied for accreditation.

128. That the memo instructing the panel is unable to correctly identify the policy in relation to which I seek, in my external communications, to correct the record is not without irony. Ms Pollard's memo mirrors the UN's continued misinformation regarding the policy. This misstatement seeks to prejudice the panel regarding the very policy that is central to the issue they seek to investigate.

129. My external reports almost uniquely concern the policy of handing names of human rights defenders to the Chinese delegation without their knowledge or consent. The evidence clearly shows that this policy has never been investigated, despite even the Director of Investigations of OIOS explicitly recognising my integrity in reporting it (Annex 19), and the Administration recognising the accuracy of my reports in court. Thus, in reporting the policy externally, I am not violating the instruction that I am not authorised to make external reports "concerning issues addressed in [the] investigation." There is no evidence to support the contention that the policy was among those issues.

130. If the Administration now claims that the panel did investigate the policy, despite its explicit statement that it would not, on the instructions of Ms. Pollard, and despite seeking no information whatsoever on the policy from me, it is for the Administration to provide evidence for this claim.

H. Specific charges dated prior to the independent determination that my reports of the policy of handing names of human rights defenders to the Chinese delegation are protected whistleblower reports, or relating to separate reports of misconduct

131. At paragraph 10(a) of the allegations of misconduct, it is alleged "On or about 21 July 2020, you gave an interview to Fox News and provided them with a letter, which included a transcript of an 'undercover recording.'" The accompanying footnote refers to the investigation report itself, to the allegations received from OHCHR, and to an unrelated screenshot from Facebook (I will proceed on the presumption that the intention was to link to the article itself).

132. No evidence whatsoever is provided to support the contention that I provided the Fox News journalist with any letter, or any transcript of any 'undercover recording.' The article does not

state the source of the letter.[46] The footnotes are merely links to the very allegations the panel was charged with investigating. This does not meet even a minimal burden of proof, and UN staff members quite simply should not be charged with misconduct based on suspicion and unsubstantiated rumour.

133. The actual sequence of events is that, at a press conference held on 25 June 2020, the Secretary-General had the following exchange with a journalist:

> Journalist: Thank you, Mr. Secretary General. Are you confident that your whistleblower policy is working? In particular, the case I bring up is of Emma Reilly of the human rights office. For all her efforts of blowing the whistle on giving the names of Chinese activists to China by the office, she has experienced retribution for those efforts and now looks like she might be fired. Will you allow her to be fired? And does your whistleblower policy need to be updated? Thank you.
>
> Secretary-General: Well, the whistleblower policy is one of the key instruments we have. In relation to that question, there was an investigation that was recently finished, and we are now moving ahead with the conclusions of the investigation. But one thing is an individual case in which we can have different opinions about this or that. The other thing is a policy in which I am adamant that all those that do their job, their obligation as whistleblowers, are effectively protected.[47]

134. I was then contacted by the journalist and asked for comment. As the statement of the Secretary-General tended to imply that the investigation related to the policy of handing names to China, I corrected the record that it was not. I in fact informed the Secretary-General and the Director of Investigations of this correction by email of 25 June 2020, in which I urged accuracy in statements made about me, and reiterated my appeal for investigation of the policy of handing names to China (Annex 61). The journalist later contacted me with further questions. I refer to my arguments in section E above that I have the right to correct the record when my employer - even the Secretary-General himself - misleads the press about my case.

135. As an aside, I would note that my case demonstrates that, to respond to the journalist's question, the whistleblower policy does indeed need to be updated, as detailed in the letter of more than 30 NGOs to the Secretary-General (Annex 62). Any whistleblower policy in which the party found to have retaliated at prima facie level against a whistleblower can prevent investigation and interfere in the independence of Ethics Officers to illegally overturn findings is clearly not working. 'Investigations' of retaliation that, as detailed in the article, simply amount to asking the accused for a written statement that they are not guilty, will clearly never find retaliation in any case for which the Administration does not want retaliation to be found. My own case also demonstrates the relatively arbitrary nature of the policy. To date, one of the three reviews of my report of the policy has found it to be a protected activity. Given the stakes in this case, which concerns complicity in serious human rights violations, it may be appropriate for the Administration to allow for the benefit of the doubt to accrue to the whistleblower. If issues of such grave potential impact are perceived as so morally ambiguous that they create such different conclusions among different Ethics Officers, it may be safer in terms of both respect for its mandate and prevention of reputational damage for the Organisation to take the most conservative approach, investigate both the policy and the retaliation, and apply protective measures.

136. At paragraph 11(a) of the allegations of misconduct, it is alleged "During June 2020, you sent letters to various delegations." At paragraph 11(b), it is alleged "On or about 6 July 2020, you sent a letter to Mr. Josep Borell, the High Representative/Vice President of the European External Action Service." I will consider these allegations together. They are factually correct, but cannot amount to misconduct. As laid out in sections B, C and D, I have an obligation under international human rights law and UN rules to report a potentially life-endangering policy, which the Administration says in court is both public and continuing. As the Administration has repeatedly, publicly misrepresented the policy, my reports, and its actions in response to my reports, it is not unreasonable to attach evidence to prove the accuracy of my reports. After all, the Administration claims in court to be merely implementing a policy that is public and known to member states.

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[46] https://www.foxnews.com/politics/un-investigator-americans-whistleblower

[47] https://reliefweb.int/report/world/secretary-generals-full-transcript-his-press-conference-launch-un-comprehensive

137. It is of note in this regard that my recognition as a whistleblower explicitly found that all of my reports of this policy since February 2013 were protected activities, which would necessarily make the above reports protected.

138. While it post-dates my recognition as a whistleblower, I will also address the allegation in paragraph 11(c), insofar as it relates to a separate report of misconduct. That paragraph states "On 29 July 2020, you sent an email which was copied to the Permanent Representatives of the United States to the United Nations in New York and in Geneva, the Permanent and Deputy Permanent Representatives of the Republic of Ireland to the United Nations in Geneva, a further State Department official, a staffer for the United States Senate Appropriations Committee, and the generic address of the United States Permanent Mission to the United Nations in New York." These individuals were in fact copied on an email addressed by me to the Secretary-General, appealing for him to intervene in an ongoing act of misconduct, so clearly I do not deny the accuracy of the statement. I do, however, contest that it is capable of amounting to misconduct. In fact, it was a protected external report of misconduct per section 4 of ST/SGB/2017/2/Rev.1.

139. On 27 July 2020, I was interviewed by internal auditors reviewing accountability mechanisms of the Secretariat at the request of the Secretary General and the General Assembly. The auditors subsequently communicated to me their intention to use my case as the primary case study to demonstrate systemic failures and lacunae in application of the policy on protection against retaliation. I had referred the auditors to the public reference in judgment UNDT/2020/097 to the instructions of the Secretary-General for my protection, which the Administration argued OHCHR had no obligation to implement. 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 had communicated to me that they had a tight deadline for the audit, so I sought leave directly from the Secretary-General on the same date to transmit his letter to the auditors, whose review he had ordered (Annex 63).

140. Unfortunately, despite my explicit warning to the Secretary-General that I feared retaliation should my cooperation with the audit become more widely known, he transmitted the request directly to Ms Pollard for her action (Annex 64). Ms Pollard then 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 (Annex 51).

141. Deliberate interference by OHCHR in the independence of OIOS is capable of constituting misconduct. This was in fact confirmed by the independent, external panel appointed to investigate the UN response to child sex abuse by peacekeepers in the Central African Republic. In that case, too, OHCHR interfered in the independence of OIOS in order to ensure detriment to a whistleblower (Mr. Anders Kompass). The only reason the former High Commissioner was not found guilty of misconduct for his interference was that the persons he sought to influence were at a similar level of seniority, and effectively should have known better.[48] There can therefore be no doubt that this was indeed a protected report of misconduct.

142. It is of note that one of the persons whose wrongdoing I reported in this instance was Ms Pollard, the responsible official. It is clearly a conflict of interest for Ms Pollard, as the person accused of wrongdoing, to decide whether or not to charge the person reporting her wrongdoing with misconduct for making said report. This merely adds to her existing conflict in this case, which is sufficiently clear to vitiate the findings.

I. Violations of procedure and due process, conflicts of interest and bias

143. I have extensively detailed the violations of procedure and due process and conflicts of interest in the present investigation, and consider my reports and submissions made during the course of the investigation, many - but not all - of which were included as annexes to the

[48] https://reliefweb.int/report/central-african-republic/final-report-panel-experts-central-african-republic-extended-4

panel report, to form part of the present response. In the interests of length, I will therefore detail only further violations in this section. I will also not repeat violations detailed in previous sections.

144. Ms. Pollard's memo of 4 January 2021 instructed the Panel to

> "look for all information and/or evidence relevant to any justification Ms. Reilly may provide for any external communications."[49]

145. Notwithstanding the fact that the instructing memo accepted the policy of providing names of human rights defenders to the Chinese Government was a fact,[50] investigators reference this as an "allegation."[51] The failure to identify with clarity whether the central issue complained of was or was not factually accurate indicates a failure to carry out an even-handed investigation. It is particularly concerning given that the panel had been specifically instructed to consider exculpatory evidence.

146. The panel reference that "[i]n many tweets she claims to have whistleblower status." The Panel had received the report of Mr. Buss, the Alternate Chair of the Ethics Panel, in which whistleblower status was conferred on me. It is unclear why they would then portray my accurate reflection of such as merely a claim. Their inability to accurately reference my status during the relevant period is a further indication of the absence of an even-handed inquiry into the facts. Instead of acknowledging the report of Mr. Buss, the panel instead seek to weigh the assertions of the Administration that I am not a whistleblower against the report of the Alternate Chair of the Ethics Panel.[52] Under the policy (ST/SGB/2017/2/Rev.1), only the Chair and Alternate Chair of the Ethics Panel are legally capable of determining whether or not a report constitutes a protected activity and thus whether an individual is a whistleblower; the Administration has no such power.

147. The Panel fail to make a finding of fact on the issue of whether whistleblower status applied in the face of a report indicating it did and the apparently unsupported assertion of the Administration that it did not. This failing is stark when considering that the initial letter instructing me not to make external reports specifically relied on the absence of whistleblower status, a matter that was expanded upon in the more detailed instruction provided by the Deputy High Commissioner.

148. The Panel include as an annex my letter to Mr. Calzada questioning his conflict of interest (Annex 65), but provide no explanation as to the failure to interview the witness I proposed in that letter, Judge Rowan Downing, the judge who heard both of my legal cases prior to his sudden removal without notice. In contrast, the panel did interview both individuals I identified in that letter as having lied about my reports.

149. It is telling that the panel at no point asks to see the responses of UN staff to the queries received from member states or the press, but merely collects the queries themselves. The actions for which I have been subject to investigation and now face allegations of misconduct relate to my attempts to correct the record regarding the policy of OHCHR to provide the Chinese government with the names of human rights defenders intending to attend the Human Rights Council in advance. The responses provided by OHCHR to the queries received would therefore have been important exculpatory evidence.

150. Similarly, the panel appears to have made no effort to contact any journalists to ask whether I contacted them, or was contacted by them for comment on a (generally false) OHCHR position. The panel expressly state that no effort whatsoever was made to contact diplomats, based on a presumption that they would not cooperate.[53] As, for example, discussed in paragraph 101 above, this resulted in a number of utterly inaccurate charges with no supporting evidence whatsoever. It is merely presumed that I am guilty of whatever any of the witnesses - a majority of whom were involved in drafting a press release that broadcast false and defamatory information about me - may wish to accuse me of.

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[49] Para. 14(ii).

[50] Albeit misrepresenting the policy in a manner that deliberately reduced its severity.

[51] Investigative report, para. 60.

[52] Investigative report para. 82.

[53] Investigative report para. 64.

151. The bias and lack of an even-handed review is perhaps most clearly demonstrated by the fact that the panel felt it appropriate to themselves act as witnesses and include adverse statements against me,[54] apparently based on the fact that I raised their conflict of interest, notably that one panel member had been found by the former Administrative Tribunal to use an investigation for the purposes of retaliating against a staff member, and had been referred by the UNDT for accountability relating to a corrupt recruitment process, which would normally preclude his re-hiring prior to conclusion of investigation into the finding of misconduct. These adverse statements can only have been included to prejudice the findings. It is clear that, whatever the panel's views of my communications, they are utterly irrelevant to the matter they were in fact tasked to investigate.

152. The bias is further demonstrated by failure of the panel to ask for the most basic information. For example, it would appear that the request I be placed under investigation was initiated in response to an allegation, included as panel annex 5.4.1, that I sent a "hate message." This apparent "hate message" leads Mr. Colville to enquire (of persons unknown - the panel does not include or request any detail of the addressees) "will the UN now take action to remove her from the organization on disciplinary grounds, as well as dignity in the workplace etc etc?"

153. It is notable that Mr. Colville does not include the alleged "hate message" in question in his communication to persons unknown demanding that I be fired. The email to which he refers is quite literally titled "Please stop lying about me," and requests factual corrections of demonstrably incorrect statements made by my employer to a British newspaper, providing examples and evidence of the falsity of the statements made. The panel notably does not request to see any of the email exchanges between Mr. Colville and the newspaper, which he boasts have led to the story moving down the website, despite my having explicitly informed the panel of reports from relatively shocked journalists that Mr. Colville regularly uses defamatory and offensive language about me of the type he used about Mr. Anders Kompass several years after Mr. Kompass was exonerated by an independent, external investigation (Annex 39).

154. The panel at no point question the motivation or test the evidence of Mr. Colville or an of the witnesses, despite the fact that precisely these individuals (with the exception of [redacted] were involved in writing and publishin a press release that included false and defamatory information about me. Despite [redacted] informing the panel that he drafted the complaint about me (apparently in response to Mr. Colville's demand that I be removed from the organisation), the panel did not consider whether or not this may create a conflict of interest.

J. Conclusion

155. If it is a requirement to be a UN Human Rights Officer that I close my eyes to UN complicity in human rights abuses because a senior manager tells me to, then I should indeed be fired. I believe in the UN Charter and, consistent with the principles and rules it lays out, and the obligation under UN rules to report misconduct, I will not be silent or complicit in the face of the most grave international crimes in exchange for my pay and benefits. I will not knowingly endanger human rights activists who turn to the UN for assistance. I will not close my eyes as the UN Human Rights Office fails to investigate or ensure accountability for complicity in international crimes in favour of preserving its reputation at any cost, even undermining its own mandate. It is shameful that my reports have been ignored, with every responsible official merely asking the accused party if he is guilty and refusing to conduct any investigation whatsoever for eight and a half years. That shame only increases with the passage of time.

"The Party told you to reject the evidence of your eyes and ears.

It was their final, most essential command."

George Orwell, 1984

[54] Investigative report paras. 86-87.