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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
LKA 5/2014

27 March 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 24/5, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **threats made to a human rights defender at a Human Rights Council side-event in Palais des Nations, Geneva.**

Mr. Visuvalingam Kirupaharan is the General Secretary of the Tamil Centre for Human Rights (TCHR). Throughout his career, he has engaged with various UN mechanisms. Mr. Visuvalingam Kirupaharan was the subject of a communication to your Excellency's Government on 11 August 2011 (LKA 3/2011) by the mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders. We regret that no response has been received to this communication.

According to the information received:

On 21 March 2014 between 12:00 p.m. and 2:00 p.m, Mr. Visuvalingam Kirupaharan attended a public side-event about human rights in Sri Lanka organized by the International Buddhist Foundation (IBF) in Room XXIV at Palais des Nations.

At the side-event, the IBF presented an hour-long video about the Government and the military in Sri Lanka. After the film, a participant at the event reportedly started to criticize the Sri Lankan diaspora. He also criticized the present draft

resolution on Sri Lanka, which he claimed was being drafted by the LTTE-supporting Tamil diaspora.

As response to these statements, Mr. Kirupaharan shared his point of view with the group. This reportedly sparked a heated argument between the participants and the organizers of the event.

After the meeting, a journalist for *Divaina* newspaper, based in Colombo, Sri Lanka, reportedly approached Mr. Kirupaharan and stated that he “cannot come to Sri Lanka”. The journalist also threatened Mr. Kirupaharan that he will “be imprisoned or face consequences”.

According to reports, the journalist also told Mr. Kirupaharan that photographs of him at the Human Rights Council would be published in Tamil, English and Sinhala newspapers in Sri Lanka.

Serious concern is expressed at these new acts of intimidation against Mr. Visuvalingam Kirupaharan, which seem to form part of a smear campaign against him. Further concerns are expressed at the use of the media in Sri Lanka in defaming individuals who legitimately interact with the UN and its human rights mechanisms.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency’s Government to article 19 of the International Covenant on Civil and Political Rights, which provides that “[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

Similarly, we would like to refer to article 21 of the International Covenant on Civil and Political Rights, which provides that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

We would like to further refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 8, paragraph 1, which stipulates that everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, “condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)” (OP 3).

Regarding the right to access and communicate with international bodies, we would draw the attention of Your Excellency's Government article 5, paragraph c) of the Declaration which states that in order to promote and defend human rights and freedoms fundamental everyone has the right, individually or collectively, both nationally and

internationally, "c) to communicate with non-governmental or intergovernmental organizations." Similarly, Article 9, paragraph 4, states that "(a) (...) everyone has the right, individually or collectively, in conformity with applicable international instruments and procedures, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms."

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Visuvalingam Kirupaharan in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary accurate?
2. Please indicate what measures have been taken to ensure that all human rights defenders in Sri Lanka, in particular those engaging with the United Nations mechanisms such as the Human Rights Council, can carry out their peaceful and legitimate activities without fear of harassment or intimidation of any sort.

We undertake to ensure that your Excellency's Government's response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Visuvalingam Kirupaharan are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of
association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders