

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**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**

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

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

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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 and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the situation of **Mr. Visuvalingam Kirupaharan**. Throughout his career as a human rights defender, Mr. Kirupaharan has engaged with various UN mechanisms. On 13 March 2008, Mr. Kirupaharan addressed the UN Human Rights Council, on behalf of Interfaith International, a non-Governmental association of individuals, which promotes the rights of persons of all different religions and ethnic groups.

Mr. Kirupaharan brought to the attention of the Human Rights Council the situation on human rights in Sri Lanka. He exposed the alleged lack of adequate investigations into human rights violations, which contributes to a climate of impunity. He also told the Human Rights Council that in Sri Lanka, "human rights defenders, lawyers, parliamentarians, academics, social workers, and others are killed by so-called unidentified gunmen".

On 17 March 2010, the Special Rapporteur on the situation of human rights defenders, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a communication to your Excellency's Government addressing the existence of a worrying and increasing trend aimed at delegitimizing the activities of human rights organisations, individual human rights defenders and journalists in Sri Lanka. We regret that to date no response has been transmitted to the communication dated 17 March 2010. In this respect, we wish to bring the following new information to your Government's attention.

According to the information received:

Mr. Kirupaharan has reportedly been subjected to harassment and intimidation as a result of an ongoing smear campaign against him, by various newspapers and websites in Sri

Lanka. It is alleged that the articles are published in pro-Government newspapers, in English, Sinhalese, and Tamil. As a result of this smear campaign, Mr Kirupaharan has received numerous threatening phone calls.

On 30 January 2011, a Sri Lankan newspaper called *Divaina* published an article claiming that Mr. Kirupaharan, along with 20 others, were wanted by Interpol for his alleged contact with people from the Liberation Tigers of Tamil Eelam (LTTE). However, Interpol reportedly holds no information concerning Mr. Kirupaharan in its files. The articles reportedly branded Mr. Kirupaharan as a “traitor” stating that he is an agent of the LTTE and suggested that “these people should be kept out of the UN”. The publication of this article reportedly forms part of an ongoing smear campaign against Mr. Kirupaharan.

It is alleged that a similar article was previously published by *Divaina* on 21 March 2010, labelling Mr. Kirupaharan a non-patriot and a terrorist, who had betrayed Sri Lanka and should therefore not be permitted access to the UN. The article was printed alongside a photograph of Mr. Kirupaharan which was taken as he attended the UN Human Rights Council in Geneva on 12 March 2010. The photograph was reportedly taken by a driver for the Sri Lankan Permanent Mission whose name is known by the Special Rapporteur, while Mr. Kirupaharan was speaking to another Sri Lankan human rights defenders at gate 40 of the UN Palais des Nations. Approximately 15 minutes after the photograph was taken, Mr. Kirupaharan was approached by the same man who had photographed him, who asked him to confirm his name. The man then allegedly asked Mr. Kirupaharan to accompany him to a quieter location within the Palais de Nations, where they spoke briefly. It is alleged that the objective of this conversation was to threaten Mr. Kirupaharan.

Concern is expressed for the physical and psychological integrity of Mr. Kirupaharan considering the ongoing smear campaign against him by various newspapers and websites. Further concern is expressed that the situation of Mr. Kirupaharan may be linked to his work in the defence of human rights, in particular, his engagement with UN mechanisms. In her Communications Report (A/HRC/16/44/Add.1, para. 2125-2127) presented to the Human Rights Council on 10 March 2011, the Special Rapporteur on the situation of human rights defenders expressed her concern in this regard.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency’s attention to the right to physical and mental integrity of Mr. Kirupaharan. We would also like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in 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.”

In this connection, we would 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 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; 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 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 on 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).

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. 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.

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. 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 of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Kirupaharan?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders