

Mandate of the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL
AUS 1/2015:

25 February 2015

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolution 25/18.

In this connection, I would like to bring to the attention of your Government information I have received concerning **the verbal attacks against the President of the Australian Human Rights Commission, Ms. Gillian Triggs, by Government officials, the request for her to resign, the interference into the work of the AHRC, and the significant reduction of its funding.**

Professor Gillian Triggs was appointed President of the Australian Human Rights Commission in 2012. She was previously Dean of the Faculty of Law and Challis Professor of International Law at the University of Sydney and Director of the British Institute of International and Comparative Law.

According to the information received:

On 3 February 2014, the Australian Human Rights Commission launched a national inquiry into the impact of immigration detention on children, led by Professor Gillian Triggs. On 31 October 2014, the Australian Human Rights Commission provided the Australian Government with a final copy of the report of the national inquiry. Allegedly, the Australian Government was required by law to table this report and its response in Parliament by 11 February 2015.

Between November 2014 and February 2015, Professor Triggs' integrity, impartiality and judgment was criticised by the Australian Government. Furthermore, two weeks prior to the scheduled tabling of the report of the national inquiry, the Secretary of the Attorney-General's Department, acting on behalf of the Attorney-General, asked Professor Triggs to resign from her position; a request which she rejected.

On 12 February 2015, the Australian Prime Minister stated that the inquiry conducted by Professor Triggs was 'a blatantly partisan, politicised exercise and

the Human Rights Commission ought to be ashamed of itself'. He further said that 'it would be a lot easier to respect the Human Rights Commission if it did not engage in what are transparent stitch-ups'. This remark was subsequently endorsed by the Attorney-General and the Minister of Social Services. Furthermore, a Government parliamentarian and committee chair stated that Professor Triggs "has effectively side-lined herself and the HRC from having any credibility with the Abbott government. If she wants to do the right thing by the Commission and have their views listened to by the government again, she needs to tender her resignation".

On 15 December 2014, the Australian Government announced a 30 percent reduction of the funding to the Australian Human Rights Commission. Furthermore, in May 2014, the Australian Government decided to no longer fund the position of a full-time Disability Discrimination Commissioner.

On 17 December 2014, a new Commissioner, namely the Human Rights Commissioner, was appointed directly by the Attorney-General. This was allegedly done without any advertisement, transparency, or consultation with Parliament or civil society, as recommended by the Paris Principles which define the role, composition, status and functions of national human rights institutions. The newly appointed Human Rights Commissioner allegedly pledged to 'advance the government's freedom agenda'.

Grave concern is expressed regarding the verbal attacks by Government officials against the President of the Australian Human Rights Commission, Professor Gillian Triggs, and the request for her to resign. Concern is also expressed regarding the significant reduction of the funding allocated to AHRC and the lack of transparency with regard to the recruitment process of the new Human Rights Commissioner, all of which could seriously undermine the work and position of the Commission. Concern is also expressed that this may be a form of retaliation following the AHRC's publication of a report on the situation of children in immigration detention centres in Australia and the documentation of the violation of their rights.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to our attention. I would therefore be grateful for your observations on the following matters:

1. Please indicate the reasons for requesting Professor Gillian Triggs to resign from her position as President of the Australian Human Rights Commission.
2. Please indicate the reason for significantly reducing the funding of the Australian Human Rights Commission.

3. Please indicate what measures have been taken to ensure the independence of the Australian Human Rights Commission and that its members can carry out their legitimate activities and exercise their right to freedom of opinion and expression without fear of retaliation or harassment of any sort.

I would appreciate receiving a response within 60 days.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, I 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, also known as the UN Declaration on Human Rights Defenders. In particular, I would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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. In particular, I would like to draw specific attention of your Excellency's Government to article 6, paragraphs (a), (b) and (c).

I would also like to refer your Excellency's government to the Human Rights Council resolution 27/18 on national human rights institutions, which was led by Australia and adopted by consensus in September 2014. The resolution provides that 'national human rights institutions and their respective members and staff should not face any form of reprisal or intimidation, including political pressure, physical intimidation, harassment or unjustifiable budgetary limitations, as a result of activities undertaken in accordance with their respective mandates, including when taking up individual cases or when reporting on serious or systematic violations in their countries'.