

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE: AL
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 25/18, 25/13, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the allegations of **threats and attacks against Ms. [REDACTED]**, and the attack against her family and raid on her home.

Ms. [REDACTED] is a human rights defender and sex worker who promotes the rights of sex workers in Brazil. She has been acting as the spokesperson for alleged victims of human rights violations, denouncing acts reportedly committed by Brazilian police during a raid on 23 May 2014, when the police allegedly entered a building where approximately 300 sex workers lived and worked.

According to the information received:

On 23 May 2014, more than 100 civilian police officers raided a building in downtown Niterói, Rio de Janeiro where approximately 300 women were working as sex workers. On the same day, Ms. [REDACTED] reportedly publicly denounced the actions of the police against sex workers during the raid, which included entering the building without a warrant, extortion, theft, robbery and rape. It is alleged that the police refused to register Ms. [REDACTED]'s complaint.

On 26 May 2014, a number of the women who had publicly denounced the raid were reportedly threatened to cease calling for an investigation into the raid. Reportedly, on 31 May 2014, Ms. [REDACTED] gave interviews to the media, and four days later, she denounced the alleged crimes committed by the police at a public

hearing convened by the Human Rights Commission of the Legislative Assembly of Rio de Janeiro.

On 21 June 2014, Ms. [REDACTED] was allegedly abducted by four men. It is reported that they took her in a car, showed her a photograph of her son taken as he was leaving his school, told her that they would kill her and her son if she did not stop making complaints and speaking to the media regarding the raid. It is claimed that the men used a knife to cut Ms. [REDACTED]'s neck and arm before releasing her.

According to reports, on 22 June 2014, Ms. [REDACTED] reported the knife attack and the threats to the police, but the officer on duty allegedly recorded her case as "circunstanciado." According to sources, such reports apply to crimes with a maximum penalty of less than two years' imprisonment, which normally means that no inquiry is launched into the incident.

On 23 June 2014, while making a report at the police station, which required her to divulge details about her residence, Ms. [REDACTED] reportedly signed a testimony that had been prepared by a police officer. It is claimed that when Ms. [REDACTED] later requested to withdraw this statement, the officer refused her request, and allegedly made a death threat against her.

The next day, Ms. [REDACTED] allegedly received a call from the police saying that they wanted to investigate her kidnapping and the assault and threats against her, and make a more detailed report on them.

According to sources, on 30 July 2014, the home of Ms. [REDACTED]'s mother was raided by a group of unknown individuals. The individuals told her mother that they knew that Ms. [REDACTED] had made a report to the police concerning the raid. It is further reported that, since denouncing the raid, Ms. [REDACTED] has been followed and photographed by unknown persons.

Allegedly, on 1 August 2014, the Programa Nacional de Proteção aos Defensores de Direitos Humanos (National Programme for the Protection of Human Rights Defenders) denied Ms. [REDACTED]'s request for protection. According to sources, Ms. [REDACTED] suffers from a serious heart condition and has been hospitalised twice as a result of recent stresses and panic attacks.

Grave concern is expressed at the threats and attacks against Ms. [REDACTED] and her family, especially given the fact that they may be directly related to her denunciation of the rape and extortion of sex workers by during the raids and extortion. Raids, cautions and arrests generally result in a shift of the sex worker population, often towards unsafe areas and place sex workers at higher risk of violence. Further concern is expressed at the abuse of power and authority exercised by the police to intimidate Ms. Oliveira and deter her from accessing justice and seeking redress.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection to 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 our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations of threats and attacks against Ms. [REDACTED] and her family.
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical examinations, 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 indicate what measures have been taken to ensure that the legitimate right to freedom of expression or opinion is respected and that the physical and psychological integrity of those exercising this right is guaranteed.
5. Please kindly indicate what measures have been taken to ensure that human rights defenders in Brazil are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.
6. Please provide information on measures undertaken to improve the responsiveness and effectiveness of domestic protection mechanisms available to human rights defenders, as well as measures undertaken to ensure human rights defenders do not face retaliation after having presented complaints to the relevant authorities. Please provide specific information on any measures taken to provide such protection to Ms. [REDACTED].

We would appreciate a response within 60 days.

While awaiting a reply, we 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 responsible of 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 our highest consideration.

Michel Forst

Special Rapporteur on the situation of human rights defenders

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Rashida Manjoo

Special Rapporteur on violence against women, its causes and consequences

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

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, we 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. Furthermore, we would like to recall articles 6, 9 and 12 of the Declaration.

We would also like to draw your attention to General Assembly resolution 68/181, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. We would also like underline the concern already expressed by the Special Rapporteur on the situation of human rights defenders about the challenges faced by defenders working on sexual and reproductive rights when she stated that "[...][human rights defenders who work on sexual and reproductive rights face risks including harassment, discrimination, stigma, criminalization and physical violence.

We would also like to bring to your Excellency's Government attention article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women. In that sense, we would also like to recall article 4 (c & d) of the Declaration, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

In this connection, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Brazil ratified on 28 September 1989.

Article 13 of the Convention against Torture requires that each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given. In this context, we would also like to draw the attention of your Excellency's Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture."

We would also like to draw the attention of your Excellency's Government to article 12 of the Convention against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. Moreover, we would like to recall that pursuant to paragraph 18 of the General Comment No. 2 of the Committee against Torture (CAT/C/GC/2, 24 January 2008), State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors have to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors.