

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

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 and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (107-9)
BLZ 1/2012

29 February 2012

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 bring to your Excellency's Government's attention information we have received concerning the alleged attack against Mr. **Caleb Orozco**. Mr. Orozco is the President of the United Belize Advocacy Movement (UNIBAM), an organisation which works on Lesbian, Gay, Bisexual and Transgender (LGTB) rights in Belize.

According to the information received:

On the afternoon of 8 February 2012, Mr. Caleb Orozco was attacked on George Street, Belize City. Allegedly, Mr. Orozco was first threatened by unidentified men shouting anti-gay slurs. According to reports, one of the men then threw a beer bottle at him, hitting him in the face. It is reported that Mr. Orozco suffered damaged teeth and bruising to the face as a result of the attack.

According to the information received, Mr. Orozco has filed a police report; however, it is reported that the police have not identified the perpetrators.

According to the information received, Mr. Orozco has frequently appeared in national media in relation to UNIBAM's advocacy work to remove a provision of the Criminal Code that allegedly criminalizes same-sex sexual activity. Furthermore, it is reported that he has been portrayed in an extremely negative light in the media by individuals and organizations who oppose his work.

Concern is expressed that the alleged attack against Mr. Orozco may be directly related to his legitimate human rights work and his legitimate exercise of his right to freedom of expression, particularly his advocacy for LGBTI rights in Belize. Further concern is expressed for the physical and psychological integrity of Mr. Orozco, particularly in light of the negative portrayals of Mr. Orozco which have allegedly appeared in the media.

While we do not wish to prejudge the accuracy of these allegations, we wish to remind your Excellency's Government that Belize, as a State party to the International Covenant on Civil and Political Rights (ICCPR), has a duty to guarantee equal protection before the law and to prohibit discrimination on any ground. The words "or any other grounds" in article 26 of the ICCPR have been interpreted to include sexual orientation. Furthermore, the Inter-American Commission on Human Rights has found in numerous cases that discrimination on the grounds of sexual orientation is not permitted under international human rights law.

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".

With regard to article 7 of the Declaration on human rights defenders, the Special Rapporteur on the situation of human rights defenders has stated that the right to develop and discuss new human rights ideas is enshrined in the Declaration on Human Rights Defenders as an important provision for the ongoing development of human rights. This includes the right to discuss and advocate for human rights ideas and principles that are not necessarily new but that, in some contexts, may be perceived as new or unpopular because they address issues that might challenge tradition and culture. In this connection, the Special Rapporteur has encouraged States to do the necessary to guarantee the principle of pluralism and recognize the right of defenders to promote and advocate for new human rights ideas or ideas that are perceived as new. She has further encouraged States to take additional measures to ensure the protection of defenders who are at greater risk of facing certain forms of violence and discrimination because they are perceived as challenging accepted sociocultural norms, traditions, perceptions and stereotypes, including about sexual orientation and gender identity.

We would also like to recall resolution 17/19 of the Human Rights Council, where the Council expressed grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity.

Furthermore, 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. In this regard, the Inter-American Commission on Human Rights (IACHR) has granted precautionary measures for LGBTI human rights defenders in cases where they are faced with substantial threats to their physical and psychological integrity, as provided for under article 25 of the rules of procedure of the IACHR.

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 "Everyone 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 addition, we would like to call the attention of your Excellency's Government to General Comment no. 34 of the Human Rights Committee, which urges States to "put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression"; stresses that under no circumstance "can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19" of the International Covenant on Civil and Political Rights; and affirms that "[a]ll such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress".

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person 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 the above-mentioned person 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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
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?
5. Please indicate what protective measures have been or will be taken to protect the physical and psychological integrity of Mr. Caleb Orozco, in order to ensure that he can exercise his legitimate activities in defence of human rights.

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