

**Mandates of the Working Group on the issue of discrimination against women in law and in practice;
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:
UA IDN 3/2014:

13 June 2014

Excellency,

We have the honour to address you in our capacity as Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; 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 23/7, 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 Ms. [REDACTED], a 26 year old woman who was allegedly gang raped and now faces threat of corporal punishment by canning.

According to information received:

On 7 May, 2014, Ms. [REDACTED], a 26 year old woman from Kampung Lhok Bani, Kota Langsa, in the province of Nanggroe, Aceh Darussalam, was in her house with her presumed 40-year-old companion, when a group of eight alleged "vigilantes" reportedly raided her home and accused her of engaging in extramarital sex. These men gang raped Ms. [REDACTED], while her companion was tied up and beaten. The attackers allegedly also doused Ms. [REDACTED] and her companion, with sewage.

After the assault took place, the attackers reportedly took Ms. [REDACTED] and her companion to the Shariah police, Wilayatul Hisbah. It is reported that the head of the Shariah office in the eastern town of Langsa, Mr. Ibrahim Latif, acknowledged the need to criminally pursue the alleged rapists. However, he also considered that Ms. [REDACTED] and her companion should be lashed as a form of punishment for allegedly engaging in extramarital sex.

Sharia law in Aceh was expanded in September 2009, to include more stringent punishments for adultery, homosexuality, paedophilia and rape. As regards adultery, punishment was set to include 100 cane lashes for the unmarried and stoning to death for those who are married.

The fact that Ms. [REDACTED] had been raped would reportedly not be taken into consideration in determining the punishment for the crime that she was accused of committing. It is reported that three of the eight alleged perpetrators, including a 13-year-old boy, have since been arrested.

It is also reported that the families of the perpetrators had come to a settlement with Ms. [REDACTED]'s family and promised to give them 10 million Rupiah. However, the family received only 3 million Rupiah to date, and there is no indication if any of that money has been received by the victim herself.

Serious concern is expressed regarding the physical and psychological well-being of Ms. [REDACTED], and at the information indicating that she could, despite being a victim of gang rape, be subjected to corporal punishment through lashing. Concern is also expressed regarding the existence of legislation that permits corporal punishment of women, and the devastating consequences that such violence has on women's physical integrity and psychological well-being. Further concern is expressed at information received indicating that this is not an isolated event, and that rape has been committed in the past by Shariah police officers against women accused of inappropriate conduct with an unrelated male.

Without in any way implying any determination on the facts of the case, we would like to affirm that the criminalization of sexual relations between consenting adults is a violation of their right to privacy and infringement of article 17 and article 26 of the International Covenant on Civil and Political Rights and must not be punishable by fine, imprisonment, flogging, death by stoning or hanging. Provisions in penal codes often do not treat women and men equally and establish harsher sanctions for women.

These allegations seem also to contravene articles 2 and 5 of the Convention on All Forms of Discrimination against Women ratified by Indonesia on 13 September 1984.

Furthermore, in its 2012 Concluding Observations (CEDAW/C/IDN/CO/6-7) to Indonesia, the CEDAW Committee has urged Indonesia to "prosecute all acts of ... sexual violence against women and girls, punish perpetrators and adequately compensate victims" (para. 26(c)).

Articles 4 (b), and 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, are also relevant in this case. They note, inter alia, 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.

We take this opportunity to make reference to the Report of the Special Rapporteur on violence against women, its causes and consequences, (A/HRC/20/16)

where she reflects on the corporal punishment of women and girls and its links to the control and limit their freedom of movement, freedom of association, as well as their personal and sexual choices. She notes that punishment usually has a collective dimension, and is public in character, as the visibility of the issue also serves the social objective of influencing the conduct of other women. In this sense, the Special Rapporteur recalls the due diligence obligations of states to modify the social and cultural patterns of conduct of men and women and eliminate prejudices, customary practices and other practices based on the idea of the inferiority or superiority of either of the sexes, and on stereotyped roles for men and women.

Both the Human Rights Committee and the Committee against Torture have called for the abolition of judicial corporal punishment. In paragraph 5 of General Comment No. 20 (1992), the Human Rights Committee stated that the prohibition of torture and ill-treatment must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 international instruments.

As 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:

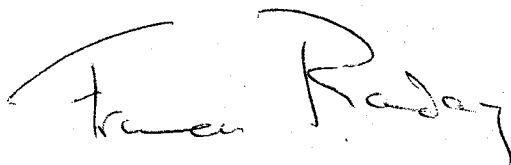
1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Has any complaint been lodged to the National Commission on Human Rights, the National Commission on Violence Against Women or any other relevant institution?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. In the event that the alleged perpetrators are identified, 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 any measures taken to ensure the physical and psychological integrity of Ms. [REDACTED] and her family.

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.



Frances Raday
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discrimination against women in law and in practice



Juan E. Méndez
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