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**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 Working Group on Arbitrary Detention; the Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; the Special Rapporteur on the independence of judges and lawyers; 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 G/SO 218/2 G/SO 214 (3-3-16) G/SO 214 (53-24) G/SO 214 (89-15)  
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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Special Rapporteur on the independence of judges and lawyers; 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 24/7, 23/7, 17/2, 16/23, and 23/25.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding Ms. [REDACTED], a 21 year old woman who was allegedly abducted and raped by her ex-boyfriend. Ms. [REDACTED] was then detained and charged with giving false information after reporting these incidents to the police. Ms. [REDACTED] is reportedly from a disadvantaged and marginalized socio-economic group which has historically suffered from discrimination in the country.

According to information received:

On 28 November 2013, just after 7:00 p.m., Ms. [REDACTED] was forcefully abducted and raped by her ex-boyfriend. It is reported that, prior to this incident, Ms. [REDACTED] had been harassed and threatened by the perpetrator and she had gone to the Sigatoka Police Station asking for assistance several times. However, the police failed in issuing a Domestic Violence Restraining Order (DVRO) nor was any assistance provided to Ms. [REDACTED].

After the rape, Ms. [REDACTED] allegedly called the Sigatoka Police Station at around 11:00 p.m. to report the incident. She was then instructed by police officer [REDACTED] to come to the station the next day, but as she started bleeding heavily she was taken to the hospital by her mother.

After Ms. [REDACTED] reported the incident and gave her statement to the police, the perpetrator continued harassing her through Facebook messages, phone texts and by calling her family and friends. It is reported that he threatened to kill her if she did not withdraw the case against him and also warned her that he had bribed the police officers, namely police officer [REDACTED], to avoid any consequences. Officer [REDACTED], together with officer [REDACTED] and inspector [REDACTED], is among the main investigating officers in this case.

After pursuing the case and continuing to be threatened by the perpetrator, a Domestic Violence Restraining Order (DVRO) was reportedly granted by the Court through the assistance of a national civil society organisation on 18 December 2013. However, the threats and harassment by the perpetrator against Ms. [REDACTED] increased. She allegedly complained about his breaches of the DVRO on 23 December 2013 and filed several complaints to the Police Station of Sigatoka. It was not until 1 January 2014 that the perpetrator was reportedly taken into custody. He was detained for breaching the DVRO, yet not because of the rape accusations. However, he was released shortly afterwards due to an alleged lack of evidence. It is also reported that, while in detention, the perpetrator was allowed to continually use his mobile phone, despite this being the main device through which he had been harassing and intimidating Ms. [REDACTED].

On 31 December 2013, a meeting took place between Ms. [REDACTED], a human rights activist supporting her, and a police delegation comprised, among others, by the Police Spokesperson (Naisoro), the Chief of Police Operations (Tudrau), the Acting Police Commissioner (Ravi Narayan), a Police Legal Manager and other officers. This delegation of approximately eight senior police officers reportedly sat with Ms. [REDACTED] and listened to her account of what had happened, including the rape, the DVRO, the threats she received, and the lack of action and support from the local police officers. It is reported that during this meeting, the Acting Police Commissioner accused Ms. [REDACTED] of “losing her integrity” for not reporting to the police right after the rape. At a later point, the human rights activist made him aware that Ms. [REDACTED] had indeed called the police at around 11:00 p.m. the same evening of the rape, but had been instructed by the police officer to come into the station the next morning. In addition to this accusation, throughout this ordeal Ms. [REDACTED] has also been accused by several police officers of not being a “good” girl, of only being interested in the perpetrator’s money as he “comes from an affluent family”, of having had consensual sex with the perpetrator and then making up a rape story, and of sending herself threatening messages.

On 1 January 2014, Ms. [REDACTED] was allegedly forcibly taken from her house bathroom (which is outside her house) by two young men, friends of the perpetrator, one of which Ms. [REDACTED] knew, and taken to an area more than three hours away from her home. This was allegedly the same day in which the perpetrator was brought into custody by the police. As Ms. [REDACTED] family and the human rights activist informed the police of her disappearance, and the young men were informed that the police would be looking for her, they reportedly began fighting amongst themselves and Ms. [REDACTED] took this opportunity to escape and board a bus. Afterwards, Ms. [REDACTED] sought shelter at a private home in that area where she was allegedly collected by the police after 8:00 p.m. on 2 January 2014. She was then taken into custody without her family being informed despite their several enquiries and calls to the police. Ms. [REDACTED] was held in custody for approximately 24 hours without the family being informed.

It is reported that following her detention, her family, a lawyer and representative human rights activist tried several times to have news and make contact with her, but the police denied them any information. The family was only advised that she would be charged and kept in custody. It is also reported that Ms. [REDACTED] family, the human rights activist, as well as friends and witnesses to the case have been yelled at and intimidated by the police officers [REDACTED], [REDACTED], [REDACTED] and [REDACTED] at the Sigatoka police station.

There are reportedly ten allegations of the police against Ms. [REDACTED], including: provision of false information, faking of a kidnapping, and sending threats to herself. She was allegedly charged on three accounts on the night of 4 January 2014, but allegedly the intention of the police is to increase it to ten accounts. While initially Ms. [REDACTED] did not ask for a lawyer, when she did ask for one she was told that she could only have access to one in court. She has been receiving legal counselling from a local civil society organization. It is reported that Ms. [REDACTED] made several admissions during detention and prior to the arrival of her legal counsellors, but she later explained that she did so under pressure, as she had been told by the police that she could go home if she agreed to tell their version of the story.

Ms. [REDACTED] was taken into police custody on 2 January 2014, time in which she was allegedly harassed, slapped and yelled at by police officers in Nadi Police Station and subsequently, she was brought back to Sigatoka Police Station. There, several members of the perpetrator's family were brought in and the police officers [REDACTED] and [REDACTED], including the perpetrator, put her behind the desk. The police officers reportedly banged on the desk, yelling at her that she was "a slut, a bad Muslim, and that she slept around with everyone". Allegedly, the police officers and members of the perpetrator's family said to Ms. [REDACTED] that "the case would be turned around against her and that after that, no one will want her".

Information received also indicates that on 2 January 2014, ██████████, a 14 year old girl who is Ms. ██████████ cousin, was interrogated, harassed and threatened by the police. Ms. ██████████ was allegedly one of the witnesses and recipients of the threats made to Ms. ██████████ by the perpetrator. Since the rape and prior to the kidnapping of Ms. ██████████, she filed statements in this regard at the Sigatoka Police Station. On the same day, Ms. ██████████ was reportedly in Sigatoka town around 10:00 a.m. when the police came and took her to the station. She went there with her family but was taken inside alone while her family was instructed to wait outside. While in the station, she was reportedly surrounded and intimidated by two uniformed female and an un-uniformed male police officers who threatened to hit her and “do things to her that her parents have not even done with her” if she did not confess that everything was a made up plan by Ms. ██████████. The police officers then proceeded to write a statement in this sense, which she signed under duress.

On 6 January 2014, Ms. ██████████ was bailed by the Court and returned to her home. Since then, she has been living under fear and pressure, as the police officers ██████████ and ██████████ have allegedly gone around to neighbours, her family and witnesses saying that she is a “dangerous girl and a slut”, that she “just wants the perpetrator’s money and that she will go to prison”.

Without prejudging the accuracy of these allegations, we would like to express our grave concern for the physical and psychological integrity of Ms. ██████████ and her aforementioned relative. Serious concern is further expressed at the allegations of rape and kidnapping and detention of Ms. ██████████; lack of access to a court-appointed lawyer during detention; acts of threats and intimidation by the alleged perpetrator and friends of the perpetrator; acts of intimidation, violence and coercion by the police in addition to their failure to respond quickly and effectively after the above incidents were reported.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned person is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee her right not to be deprived arbitrarily of her liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights.

We would also like to bring to your Excellency’s Government attention the relevant international standards related to women’s rights and in particular article 4 (b, c & d)) of the United Nations Declaration on the Elimination of Violence against Women, which, amongst others, 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 (adopted by General Assembly resolution 48/104 on 20 December 1993).

General recommendation No. 19 (1992) of the Committee on the Elimination of Discrimination against Women (CEDAW) is also relevant in this case as it defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (acceded by the Republic of the Fiji Islands on 28 August 1995), whether perpetrated by a State official or a private citizen, in public or private life.

Furthermore, we wish to recall paragraph 22 of the 2010 Concluding Observations of the CEDAW Committee (CEDAW/C/FJI/CO/4), where the Committee noted that “the level of violence against women in all its forms is persistently high in both the private and public spheres” and “remains concerned at the absence of a holistic approach to the prevention and elimination of all forms of violence against women, including the introduction and enforcement of comprehensive integrated legislation prohibiting all forms of gender-based violence, as well as other effective measures to prevent, investigate and prosecute gender-based violence”. It also noted that “social support services suffer from inadequacy, insufficiency and a lack of coordination.” The Committee recommended that the Republic of the Fiji Islands “investigate and prosecute all cases of violence against women” as well as “develop a coherent and multisectoral action plan to combat violence against women” (para. 23).

At the sub-regional level we would like to recall that in the 2012 Declaration on Gender Equality, the Pacific Islands Forum called upon States in the region to “implement progressively a package of essential services (protection, health, counselling, legal) for women and girls who are survivors of violence” and to “enact and implement legislation regarding sexual and gender-based violence to protect women from violence and impose appropriate penalties for perpetrators of violence.”

Furthermore, with respect to the allegations according to which Ms. [REDACTED] has been harassed, slapped and yelled at by police officers while in Nadi Police Station and was subjected to further acts of intimidation, violence and coercion by the police, we would like to draw your Excellency’s Government’s attention to paragraph 7 (b) of Resolution 8/8 of the Human Rights Council, which stated 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”. All forms of torture and other cruel, inhuman or degrading treatment are prohibited by international law and standards.

In relation to the right to a fair and public hearing and to be assisted by a lawyer, we would like to recall article 10 and 11(1), of the Universal Declaration of Human Rights as well as the Basic Principles on the Role of Lawyers, adopted by the Eighth

United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, in particular principle 1, 5, 7 and 8.

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 Ms. [REDACTED] in compliance with the above international instruments.

Moreover, 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, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide the full details of any protective measures put in place to ensure the life, physical and psychological security and integrity of Ms. [REDACTED] and her afore-mentioned relative.
3. Please provide detailed information on the legal grounds for the arrest of Ms. [REDACTED], including any judicial proceedings undertaken against her, and explained how her arrest, detention and prosecution comply with international human rights standards, including the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the UN Basic Principles on the Role of Lawyers.
4. Please provide detailed information on the measures that Fijian authorities have taken, or intend to take, to ensure that Ms. [REDACTED] has access to free legal assistance.
5. 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.
6. Please provide the full details of any prosecutions which have been undertaken against the alleged perpetrator(s). Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
7. Please provide information on the steps taken to ensure that Ms. [REDACTED] and her family are protected from violence, threats of violence or any form of intimidation.

8. Please indicate whether compensation has been provided to the victim or the family of the victim.

We undertake to ensure that your Excellency's Government's response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. [REDACTED] 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.

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

Mads Andenas  
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Frances Raday  
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against women in law and in practice

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