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PROCEDURES SPECIALES DU
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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:UAL Housing (2000-9) G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)
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23 February 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 15/8, 16/4, 15/21, 16/5, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning judicial and other harassment of Mr. **Steve Richardson**, a member of the Los Angeles Community Action Network (LA CAN), a grassroots organization working in downtown and South Los Angeles, with a specific focus on the Skid Row community in downtown Los Angeles. He is the leader of LA CAN's Community Watch Program which has been instrumental in recording human rights violations at the hands of the police. Mr. Richardson also teaches low-income residents about human rights and how to defend them, gives testimony in relation to human rights violations, speaks at public conferences and events and leads large-scale community events such as clean-up days.

According to the information received:

It is reported that in the 1990s Mr. Steve Richardson was convicted of two felonies and served time in prison. During this time the State of California enacted a three-strikes law which requires anyone convicted of three serious felonies to serve 25 years to life in prison. It is alleged that Mr. Richardson therefore faces a risk of a third strike charge and this sentence if he is convicted of serious felony.

In March 2008, Mr. Richardson was reportedly performing Community Watch duties when the car in which he was travelling was stopped by members of the

Los Angeles Police Department (LAPD). Mr. Richardson and two other team members were allegedly handcuffed, forcefully thrown against a brick wall and searched. It is reported that additional force was used against Mr. Richardson and another team member. Mr. Richardson was subsequently charged with the felony of resisting arrest, constituting a third strike charge, while the other team members were released. In November 2008, it is reported that the case against him was dismissed.

On 21 May 2010, it is reported that, Mr. Richardson was among 300 housing rights defenders who attended Los Angeles City Council Chambers for the Council's vote on a rent freeze scheme for tenants. When the vote against the rent freeze was passed the low-income residents and their supporters allegedly began chanting their opposition. In response, it is reported that dozens of police officers entered the Council Chambers and began to forcibly remove the individuals who had gathered there.

It is alleged that three out of the 300 people present were arrested, all of whom were members of LA CAN, including Mr. Richardson. LAPD officers reportedly used significant force against Mr. Richardson pushing, kicking and hitting him. He was allegedly charged with a felony of resisting arrest which constituted a third-strike charge under the three-strikes law. The charge was subsequently rejected by the District Attorney during his first arraignment, and the charge was reduced to a misdemeanour. At his second arraignment the City Attorney reportedly rejected the charges, and the case was dropped.

It is reported that in August 2010, Mr. Richardson was informed that the City Attorney had re-filed three misdemeanour charges against him relating to the events of 21 May 2010. It is alleged that during the pre-trial process the City Attorney claimed that 11 misdemeanour offences had in fact occurred. Mr. Richardson pleaded not guilty to the charges but was reportedly found guilty of nine misdemeanours despite the police officers' testimony being allegedly in conflict with video evidence. He was subsequently sentenced to a two-year probation period during which there is a lower burden of probable cause for arrest.

The filing of these charges against him reportedly came just a week after Mr. Richardson testified in front of the Los Angeles City Council in August 2010 regarding the Council's decision to raise rents. During his testimony he allegedly returned an LA City Commendation award which he had received, on the basis that it was worthless in light of the fact that the city had acted violently against him and other citizens on 21 May 2010.

Mr. Richardson has been arrested once he started his probation period, on 6 October 2011. He was reportedly stopped by police while drinking coffee outside of a building where he attends a class on the University of Southern California campus. He spent the night in jail and had to appear at two arraignments, one by the District Attorney and one by the City Attorney. In the first arraignment, the

charge recommended in the police report was threatening an officer, a felony charge which could lead to a third strike. The District Attorney did not pursue this recommendation, reportedly indicating that the evidence did not support it. However, Mr. Richardson faced a threat of a third strike charge thereby bringing on a 25-year-to-life sentence attached for the four weeks leading up to the arraignment on 4 November 2011 and subsequent decision by the District Attorney to decline to file charges.

There have been other threats of arrest during Mr. Richardson's probation period. Notably, he participates in a monthly protest of the LAPD and business community's efforts to continue the criminalization of homelessness, conducted peacefully and legally by between 20 and 40 people each month. The police have reportedly singled out Mr. Richardson during these protests and threatened multiple times to arrest him.

Concern is expressed regarding the judicial and other harassment of Mr. Steve Richardson which it is feared may result in the three-strikes law being imposed on him. Further concern is expressed, that such harassment as outlined above, may be directly linked to his human rights activities and in particular his work relating to housing rights within the Skid Row community in Los Angeles.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the International Covenant on Civil and Political Rights (ICCPR), which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others."

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that "[c]alls upon States to respect and fully protect the right of all individuals to assemble peacefully... including persons espousing minority or dissenting views or beliefs, human rights defenders... seeking to exercise or to promote th[is] right, and to take all necessary measures to ensure that any restrictions on the free exercise of the right to freedom of peaceful assembly are in accordance with their obligations under international human rights law."

Moreover, given that peaceful assemblies constitute one means of expression, we also wish to remind 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 ICCPR, 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."

We also wish 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.”

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters;

- article 9, para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights; and

- 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.

We would also like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in

the Universal Declaration of Human Rights (UDHR), the ICCPR, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

Furthermore, we would like to emphasize that the right to adequate housing derives from the right to an adequate standard of living which is protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which your Excellency's Government signed on 5 October 1977. Upon signing the ICESCR, your Excellency's Government agreed to bind itself in good faith to ensure that nothing is done that would defeat the object and purpose of the international instrument, pending a decision on ratification.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Steve Richardson are respected and that accountability of any person guilty of the alleged violations is ensured. We also request that your Government adopts effective measures to prevent the recurrence of these acts.

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:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Steve Richardson?
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. Please provide the full details of any prosecutions undertaken.
4. Please indicate what measures have been put in place to ensure that Mr. Steve Richardson can carry out his human rights activities, including his rights to freedom of expression and freedom of peaceful assembly, without fear for his physical and psychological integrity.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

Raquel Rolnik

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Frank La Rue

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Maina Kiai

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