

Mandates of the Working Group of experts on people of African descent; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human right to safe drinking water and sanitation

REFERENCE: UA
USA 19/2014:

8 December 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group of experts on people of African descent; 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 the human right to safe drinking water and sanitation pursuant to Human Rights Council resolutions 27/25, 24/5, 25/18, and 24/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged arrests and charges pressed for disorderly conduct against a group of peaceful protestors in the city of Detroit. Pre-trial hearings for this case were due to begin on 8 December 2014**

The allegations of unjustified disconnections of water services in Detroit were the subject of a joint urgent appeal dated 24 June 2014, case no. USA 9/2014 by the Special Rapporteur on extreme poverty and human rights, 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 and the Special Rapporteur on the human right to safe drinking water and sanitation. We are grateful for the reply of your Excellency's Government on 17 October 2014.

According to the information received:

Mr. Hans Barbe, Mr. William Wylie-Kellerman, Ms. Marian Kramer, Ms. Marianne McGuire, Mr. David Olson, Mr. James Perkinson, Ms. Kimberley Redigan and Ms. Joan Smith were arrested on 18 July 2014 and charged for disorderly conduct pursuant to City of Detroit Ordinance Sec. 38-5-1 following peaceful demonstrations outside the gates of Homrich Wrecking Inc, a contractor

of the City of Detroit Water and Sewer Department (DWSD). Pre-trial hearings for this case were due to begin on 8 December 2014.

According to the arrest reports of the Detroit Police Department, the protestors were preventing Homrich Wrecking Inc. from restoring water service to residential consumers. The protest was reportedly peaceful and attempted to prevent service vehicles from leaving the lot to conduct water shutoffs.

The demonstrations of 18 July 2014 took place against a backdrop of reported water shut-offs in the City of Detroit for those who could not afford to pay their bills. In March 2014, DWSD reportedly announced that it would begin shutting off water service for 1,500 to 3,000 customers per week. Following the announcement, DWSD reportedly interrupted water service to 15,200 customers between March and June of 2014 based on the Interim Collection Rules and Procedures of DWSD. The inability of the most vulnerable and poorest families to pay these bills reportedly follows significant price increases as DWSD allegedly passed infrastructural costs to customers. Furthermore, reports suggest that the people affected by the water shut-offs are mostly African-Americans who live in the City of Detroit.

Whilst acknowledging that legal proceedings are ongoing, we are concerned that the prosecution of the above-mentioned individuals appears to be a result of their legitimate objectives to promote the human rights of the affected families and of their exercise of the right to peacefully assemble, in contradiction with the article 21 of the International Covenant on Civil and Political Rights (ICCPR) that the United States of America ratified in 1992. Moreover, we are concerned about the reported water shut-offs that indicate a prima facie violation of the human right to safe drinking water and sanitation that 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 (UDHR), and article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which the United States of America signed in 1977. Furthermore, we express concern about the reported disproportionate effect of water shut-offs against the most vulnerable and poorest, most of whom seem to be African-Americans which runs contrary to the human rights principle of equality and non-discrimination enshrined in the UDHR, ICESCR and ICCPR and other human rights treaties that the United States has ratified.

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(s) 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 information.

2. Please indicate what efforts, if any, have been made to guarantee the application and defence of fundamental rights and principles within criminal investigations and proceedings against the aforementioned individuals.

3. Please indicate the status of the United States Government's investigations of the situation concerning equality and non-discrimination in access to water in the City of Detroit.

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.

Mireille Fanon Mendes-France
Chair-Rapporteur of the Working Group of experts on people of
African descent

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Michel Forst
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