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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; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) Health (2002-7) G/SO 214 (107-9) G/SO 214 (89-15)
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Excellency,

We have the honour to address you in our capacities as 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolution 16/4, 15/21, 15/22, 16/5, and 16/7.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning an **arson attack against the offices of the non-governmental organization Women with a Vision.**

"Women with a Vision" (WWAV) is a women's rights organization based in New Orleans, Louisiana, which was founded in 1991. It seeks to improve the lives of marginalized women, including women with low income, women of colour, women experiencing substance abuse, sex workers and women formerly incarcerated, through the use of advocacy, health education, supportive services and community-based research. WWAV's public profile has increased through its work on various issues, including the investigation of police misconduct, advocating for family planning and reproductive health services for marginalized women, and its opposition to a Louisiana statute requiring persons convicted of a "Crime against Nature by Solicitation" to register as sex offenders, which resulted in a successful lawsuit action taken by clients of WWAV, the ruling of which was delivered on 29 March 2012.

According to the information received:

On 22 May 2012, the Senate of the State of Louisiana passed the “Pain Capable Unborn Child Protection Act”, a law related to the termination of pregnancy, whose aim is to “protect the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain” (i.e. by 20 weeks). The consequence of the mentioned law is that abortion is prohibited after 20 weeks of gestation, with three exceptions, including when a woman’s life is at risk. The law carries a penalty of fines and up to two years’ imprisonment, and is reportedly one of eight such state laws to be enacted in the United States (US) since 2010. The passing of the law was publicly opposed by WWAV, which argued that the law had a disproportionate effect on marginalized and low-income women, who are more likely to discover pregnancies at a later gestational period due to a lack of access to affordable healthcare. WWAV also argued that the law would impact significantly on the work of reproductive healthcare providers and advocates, including increased stigma against such persons and organizations.

Shortly before 12:00 a.m. on 24 May 2012, an unidentified person allegedly broke into the offices of WWAV. The alleged perpetrator reportedly started fires in at least four rooms, which subsequently spread throughout the entire building. Reports indicate that the room most targeted was that in which the rights-based trainings of WWAV were conducted and where sexual and reproductive health training materials were stored. The alleged perpetrator reportedly burned several items, including models of the female and male reproductive organs, taken from WWAV’s training packs, posters on reproductive justice, presentation boards with information on HIV and AIDS, and other files and educational material. Two awards received by WWAV were allegedly thrown out of the second floor window and were subsequently found in a side street. While a laptop and a television were allegedly stolen, it is reported that the majority of valuable items in the offices were not.

Police officers from the New Orleans Police Department (NOPD) reportedly arrived on the scene upon hearing the building’s security alarm, which had been activated during the break-in, and notified the New Orleans Fire Department, which subsequently ruled the incident as “aggravated arson”.

According to the information received, immediately following the fire, NOPD officers expressed doubt that the arson was related to the work of WWAV and allegedly implied that it may have been personally motivated. The NOPD subsequently informed WWAV that it was not their responsibility to investigate the cause of a fire and has not reportedly conducted a criminal investigation on the incident to date. It is also reported that journalists’ attempts to secure a copy of the NOPD file on the case have been unsuccessful.

Sources report that on 10 August 2012, WWAV was informed that a federal investigation had been opened into the incident. Reportedly, WWAV has not received any additional information on the investigation and the organization's attempts to secure such information have been unsuccessful to date. It is reported that since the arson attack, WWAV operates on a limited capacity basis, while its ability to secure funding has decreased, allegedly due to a large extent to increased levels of stigma against the organization as a result of the arson incident.

Serious concern is expressed at the arson attack against the offices of Women with a Vision, which followed the enactment of legislation relating to the criminalization of the termination of pregnancy by the State of Louisiana. Grave concern is expressed at the allegation that the attack was motivated by WWAV's opposition to the ramifications of such legislation, and by other work carried by the organization, in particular its advocacy on behalf of marginalized women for access to family planning and reproductive health services and its provision of sexual and reproductive health training and rights-based training to disadvantaged women and communities. Concern is also expressed about allegations that the New Orleans Police Department have not carried out a criminal investigation of the incident to date, despite the New Orleans Fire Department reportedly ruling the incident as "aggravated arson". Concern is expressed that the failure of the New Orleans Police Department to investigate the incident may result in a chilling effect on WWAV and on other organizations and defenders in the US who promote and protect sexual and reproductive rights.

Furthermore, concern is expressed at allegations that the arson attack forms part of a continued and escalated campaign of violence against sexual and reproductive rights defenders in the US, in particular those persons and organizations which oppose the impact of legislation, and other measures, on the enjoyment of the right to the highest attainable standard of physical and mental health, including access to adequate sexual and reproductive healthcare services. From March to May 2012, four burglaries and two arson attacks were allegedly carried out against medical associations and individual doctors in Georgia. These incidents reportedly coincided with the debating of a bill in the legislature of the State of Georgia related to the termination of pregnancy. The associations and individuals targeted had reportedly publicly expressed their concerns about the proposed bill, which carries a criminal penalty of up to ten years imprisonment, and which was enacted on 1 May 2012.

While we do not wish to prejudge the accuracy of these allegations, we wish to make reference to Resolution 12/16 of the Human Rights Council which calls upon States to ensure that victims of violations of the right to freedom of expression have an effective remedy, to investigate effectively threats and acts of violence, including terrorist acts, against journalists, including in situations of armed conflict, and to bring to justice those responsible to combat impunity.

We would like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the International Covenant on Civil and Political Rights, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Regarding allegations that the arson attack was motivated by WWAV’s opposition to the enactment of the Pain-Capable Unborn Child Protection Act by the Senate of State of Louisiana and its work in the area of sexual and reproductive health, we would like to underscore the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The right to health, including the right to sexual and reproductive health, is enshrined, inter alia, in article 25 of the Universal Declaration of Human Rights (UDHR) and article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), signed by the United States on 5 October 1977. Upon signing the Covenant, 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 would also like to refer your Excellency’s Government to the General Assembly report of the Special Rapporteur on the right to health (A/66/254), which notes that “Women are entitled to equal health protection afforded by the State as part of the right to health. Regardless of the legal status of abortion, women are entitled to receive access to goods, services and information related to sexual and reproductive health” (para.30). The Special Rapporteur further elaborates that “The marginalization and vulnerability of women as a result of abortion-related stigma and discrimination perpetuate and intensify violations of the right to health” (para.34), and that “States should take measures to protect those who provide abortions and related services from harassment, violence, kidnappings and murder perpetrated by non-State actors (religiously motivated or otherwise)” (para.28).

We would also like underline the concern already expressed by the Special Rapporteur on the situation of human rights defenders about the challenges faced by defenders working on sexual and reproductive rights when she stated that “[...][human

rights defenders who work on sexual and reproductive rights face risks including harassment, discrimination, stigma, criminalization and physical violence. As part of this group, medical and health professionals, by providing sexual and reproductive health services, ensure that women can exercise their reproductive rights. In certain countries, these health professionals, as a result of their work, are regularly targeted and suffer harassment, intimidation and physical violence. In some countries, these attacks perpetrated by non-State actors have led to killings and attempted killings of medical professionals.”¹

In this connection, 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”.

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

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; 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.

¹ A/HRC/16/44, para. 45

We would, moreover, like to bring to your Excellency's Government's attention article 4 (o & p) of the United Nations Declaration on the Elimination of Violence against Women which notes that States should recognize the important role of the women's movement and non-governmental organizations in raising awareness and alleviating the problem of violence against women, and should, moreover, facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels.

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 above summary of the case accurate?
2. Please provide the legal basis for the reported failure of the New Orleans Police Department to conduct a criminal investigation into the incident described above, despite the New Orleans Fire Department reportedly ruling the incident as aggravated arson.
3. Please provide the details of the status of the reported federal investigation into the arson incident, and whether this information will be transmitted to Women with a Vision. If this information will not be transmitted to the organization, please explain why.
4. Please indicate what measures have been or will be adopted to ensure that sexual and reproductive rights defenders and advocates in the U.S. are free to carry out their legitimate and peaceful human rights activities without fear of violence, intimidation, stigma, or disproportionate legal restrictions of any sort.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report 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 the members and staff working with the non-governmental organization Women with a Vision 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.

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

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

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Rashida Manjoo
Special Rapporteur on violence against women, its causes and
consequences