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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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OFFICE OF THE UNITED NATIONS
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; and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (33-27)
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31 August 2012

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; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 16/4, 15/21, and 17/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding **allegations of widespread acts of violence against peaceful protesters in the context of the protests carried out since 18 July in the town of Linden, Georgetown.**

According to the information received:

On 18 July 2012, groups of residents from the mining town of Linden participated in a peaceful protest to denounce a disproportionate rise in electricity prices. The Government allegedly scheduled an electricity rate increase to take effect on 1 July in Linden from 25 USD to approximately 100 USD a month. The Government also decided to cut its subsidies to the Linden Electricity Company by one third. Organizers planned a "5 day shut-down" of the city, which involved the closure of all businesses in the area.

It is reported that during the first day of the protests, on 18 July 2012, organizers called on residents to "march fearlessly against injustice". A peaceful demonstration was planned to start off at the Christianburg Community Centre through Sir David Rose Avenue, and end in the Kara Kara area in the vicinity of the Toucan Call Centre where a number of activities were planned to take place.

According to the reports received, police officers violently dispersed protesters during the course of the demonstration, shooting live rounds and killing at least 3 persons and injuring about 20 others. Allegedly, a number of buildings were set on fire, including the Linmine Secretariat building.

Following these incidents, President Ramotar established a five member commission of inquiry into the event, composed of a retired Chief Justice of Jamaica, two senators, a former Chancellor of the Judiciary, and former Justice of Appeal. It is reported that the commission's terms of reference will consider the situation on the ground before 18 July; the composition of the police units that were deployed; the issues the police faced at the time of the events; the persons that were leading and mobilizing protesters; property damage; compensation for the victims; and the role of the Home Affairs Minister in the police's conduct. However, while the commission is expected to begin its work by the end of the month of August, it is claimed that no charges have been instituted on those responsible for the killings. In addition, on 25 July the Government allegedly announced that it would put the price hike on hold in Linden and that it would establish a technical team to examine the viability of the tariff hike.

On 7 August, in an open letter President Ramotar appealed to Linden's residents to end the protest, urging "a restoration to normalcy in the town for an end to unlawful actions" and to resist "extremists".

According to reports received, on 10 August Joint Services, presumably made up of law enforcement and other agencies, carried out an operation to end the three weeks of protests that had been taking place since 18 July. Allegedly, the joint services resorted to violence while clearing access to roads and bridges and removing tents installed by protesters. It is also reported that the Guyana Defence Force air-dropped leaflets calling on Linden's inhabitants to cooperate with the joint services. It is also reported that three buildings within the same compound were set ablaze. Civil society organizations condemned the excessive and indiscriminate use of tear gas and rubber bullets against civilians.

Without prejudging the accuracy of these allegations, serious concern is expressed for the physical and psychological integrity of all those involved in the protests in Linden since 18 July 2012. Serious concern is also expressed that the allegations of widespread acts of violence that led to the loss of 3 civilian lives and to the injury of at least 20 persons could be related to their legitimate work in the defence of human rights and fundamental freedoms.

While we do not wish to prejudge the accuracy of these allegations, we wish to recall article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified on 15 February 1977, 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 would also like to refer to article 21 of the International Covenant on Civil and Political Rights, 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 or the protection of the rights and freedoms of others.

Should restrictions to the right to peaceful assembly be applied, we wish to recall General Comment 31 of the Human Rights Committee that states that,“States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right”. Hence, they shall not be arbitrarily invoked to prevent dissenting views from exercising their legitimate rights. In this context, we would like to refer to Human Rights Council resolution 15/21 that recognizes that “exercising the rights to freedom of peaceful assembly... free of restrictions, subject only to the limitations permitted by international law, in particular international human rights law, is indispensable to the full enjoyment of these rights, particularly where individuals may espouse minority or dissenting religious or political beliefs. In addition, we also wish to recall operative paragraph 1 of the same resolution that “Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully... 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...are in accordance with their obligations under international human rights law.”

In addition, we would like to bring to the attention of your Excellency’s Government articles 3 of the UDHR and 6 (1) of the ICCPR which respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life. We would also like to mention the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (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 12 provides that “everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the UDHR and the ICCPR, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.” These provisions restrict the use of firearms to situations of violent assemblies and provide that

force and firearms may only be used as a last resort when unavoidable and require exercising the utmost restraint.

Furthermore, law enforcement officials may only use force when it is strictly necessary and only to the extent required, for the performance of their duties. The use of force and firearms must as far as possible be avoided, using non-violent means before resorting to violent means. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated, including giving a clear warning of the intent to use force and to provide sufficient time to heed that warning, and providing medical assistance as soon as possible when necessary.

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 cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. 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.
4. Please explain how police's and military's operations in Linden are in accordance with the obligations under international human rights law, and in particular with articles 2.3, 6, 19 and 21 of the ICCPR.
5. Please indicate what measures have been taken to ensure that the residents of Linden, human rights defenders, activists and civil society organizations can operate in an enabling environment and can carry out their legitimate activities without fear of acts of violence, harassment, stigmatization or criminalization of any kind.

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 above mentioned persons 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

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Christof Heyns

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