

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
AL BRA 9/2018

31 August 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 34/5, 31/16 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the denial of pastoral agents to officially register and entry into centers of detention to offer religious services to persons deprived of liberty.

Mr. Paulo Cesar Malvezzi and Father Almir José de Ramos, are human rights defenders and members of Pastoral Carceraria, an organized service of the National Conference of the Bishops of Brazil. They regularly participate in religious assistance work in centres of detention.

The Pastoral Carceraria regularly receives allegations of torture during their visits to detention centres and have had a prominent role in making public statements and publishing reports based on the information collected during their detention visits.

According to the information received:

Mr. Malvezzi has applied to the State Secretariat of Penitentiary Administration to gain access to the detention centre in the State of Sao Paulo, but he has been denied registration on numerous occasions allegedly due to his statements made in the press denouncing the human rights violations that persons deprived of liberty are subject to in detention centres. Reportedly, he is also facing difficulties to be registered as a Pastoral agent. He allegedly submitted multiple requests with the relevant documentation in compliance with the regulations.

In 19 July 2017, Father José de Ramos was denied entry into the Agricultural Penal Colony of Palhoça, in the State of Santa Catarina, because he was allegedly carrying sacramental wine.

Additionally, it is reported that pastoral agents are often forced to provide religious assistance from outside the cells and the time allocated for visits is not sufficient. Moreover, pastoral agents have received threats from prison officials and attacks in the media reportedly as a result of their work in defending the rights

of the persons deprived of their liberty and in reporting on alleged cases of torture in prisons.

While we do not wish to prejudge the accuracy of these allegations, we express concern that Pastoral Carceraria is not able to operate freely in the country and that they are facing obstacles that are incompatible with the right to freedom of religion and belief under international human rights law when trying to officially register their pastoral agents. We are also gravely concerned that their important role in documenting cases of torture is being intentionally hindered.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate what concrete measures have been taken to ensure that persons deprived of liberty have the right to profess and practice their own religion or belief freely and without interference or any form of discrimination.
3. Please comment on the reported denial of accreditation of Mr. Malvezzi by the State Secretariat of Penitentiary Administration State.
4. Please indicate if any steps have been taken towards allowing the registration of Pastoral agents in order to comply with international human rights law.
5. Please comment on the reported denial of entry of Father José de Ramos into the Agricultural Penal Colony of Palhoça, in the State of Santa Catarina.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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(s) responsible for the alleged violations.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief of the members of Pastoral Carceraria and those persons deprived of liberty in accordance with the principles set forth in article 18 of the International Covenant on Civil and Political Rights.

We also would like to refer to Human Rights Council resolution 6/37 paragraph 9 (f) urging States "To review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private"; and (g) "To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas;" as well as (h) "To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;"

We deem it appropriate to make reference to Human Rights Council Resolution 12/16 which refers to the right to freedom of thought, conscience and religion or belief as an intrinsically linked right to freedom of opinion and expression, and in this context, calls on States to take all necessary measures to put an end to violations of these rights and to create conditions to prevent their reoccurrence. In this regard, we would like to underline that any restriction to the right to freedom of expression must meet the threshold established under article 19(3) of the ICCPR. We reiterate the principle enunciated in Human Rights Council Resolution 12/16, calling upon states to refrain from imposing restrictions which are not consistent with article 19(3), including on expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Furthermore, we would like to recall that the General Assembly, in its resolution 63/181 paragraph 9 (j) urges States "To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided;".

In this connection, we would like to kindly request your Excellency's Government to transmit this communication to the relevant authorities and to take all necessary measures to guarantee that the rights and freedoms of the persons deprived of liberty and the members Pastoral Carceraria are respected.