Mandates of the Special Rapporteur on the situation of human rights defenders; and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

REFERENCE: UA USA 16/2018

7 August 2018

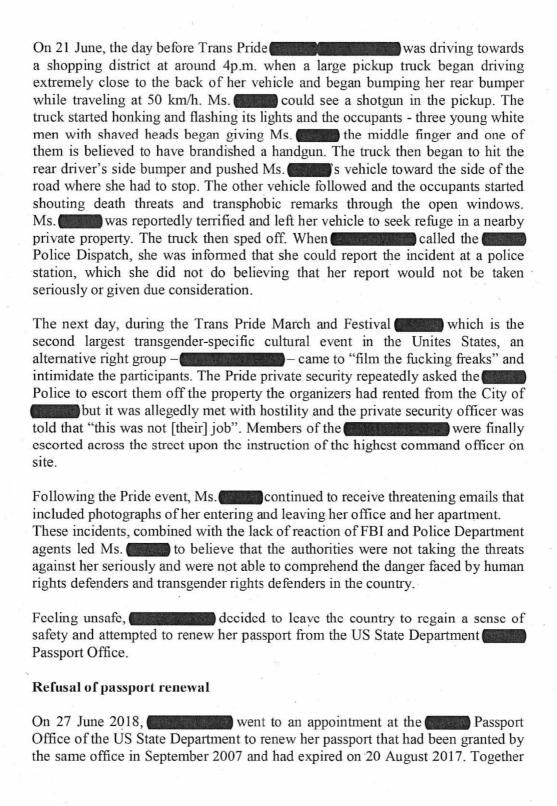
Excellency,

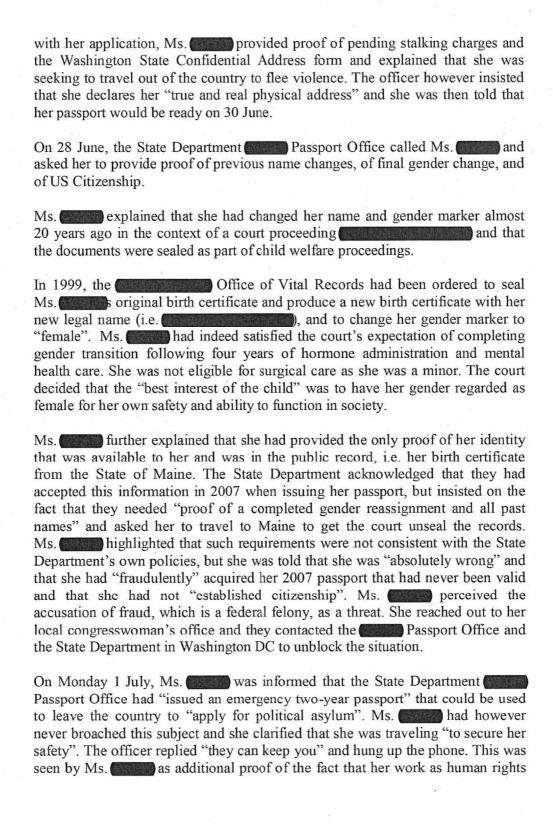
We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 34/5 and 32/2.

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In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of death threats, acts of violence and intimidation, harassment, and discrimination against human rights defender and transgender rights defender.
is the Executive Director of sexuality civil and human rights organization. The organization is currently challenging the constitutionality of the Transgender Military Ban. Ms. is among the most visible and prominent transgender leaders She has had widespread media exposure over the last several years
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According to the information received:
Since 17 May 2018, has received numerous and escalating death threats, hate messages, threats of violence, and "doxing" (i.e. researching and broadcasting on the Web private information such as Ms. legal name, immigration history, friends/family contacts) from several groups and individuals. In particular, on 17 May 2018, began receiving emails from a hate speech Internet forum known to be openly offensive towards transgender persons, among others. These emails contained intimidating comments and threats of violence and of "doxing", as well as information about other groups they intended to contact to harass Ms.
On 22 May 2018, Ms. received seven emails in six hours containing hate messages, death threats and threats of sexual violence from a white patient list/nee page organization, paged.

League. Between 23 May and 5 June 2018, several attempts were made to take down the website of the organization (DDOS attacks), break into their secure email service, and attack their database server. Most of the messages included hate language directed against LGBT persons that were spammed into fields of emails. In this context, Ms. received more than 12,000 emails with the same hateful subject matter and further threats in the body text. in conjunction with and several other "alternative right" websites began making public posts of sphotos, including of her vehicle and the license plate, of the location of her mother's nursing home, of her brother's workplace, and of the place where she receives medical care. These groups also published addresses of her mother and brother. Ms. S address could not be disclosed as it is protected by the State of Washington's address confidentiality program for similar harassment and threats of violence in the past. The location of the office of the also confidential. According to the information at our disposal, these photographs were taken in person and not generally available online. At the request of Ms. they have been removed from the Internet by service providers, but they are still available on various "dark web" bulletin boards and websites associated with white supremacists in the Northwestern United States under "Kill List" titles. received several threats on its Facebook On 19 June 2018, Event Page for Trans Pride These threats included edited images with fascist/neo-nazi and "anonymous" symbols and images superimposed over images of Ms. s face. The latter forwarded these images to the Justice Department Community Relations Service, the FBI Cybercrimes Unit and the Police Department, and she made several phone calls to the police captain for her area and the LGBT Liaison officer. Despite reference by Ms. to the ongoing and escalating threats to her and her family, both officers said that this "did not rise to the level of importance" for them and added that she could "file a police report but nothing would happen". She was then told to "buy a gun and learn how to use it" and to hire a private security firm to protect herself as "the FBI and the. Department of Justice are not in the business of personal protection". According to information at our disposal, during the phone conversations, the officers were dismissive and ridiculing and they suggested that Ms. "tone down" her public work and image.

messages were followed by several menacing phone calls to Gender Justice





defender and transgender rights defender was not welcome and of the unwillingness of the administration to protect her.

While we do not want to prejudge the accuracy of the information made available to us, we express grave concern over these allegations of **death threats**, acts of violence, intimidation and harassment and the lack of State protection of Ms. for her legitimate and peaceful activities as human rights defender and in defense of the rights of transgender persons. An equal matter of serious concern is the **discriminatory** attitudes and derogatory remarks made by State officials. Serious concern is also expressed with regard to abusive requirements asked by officers at the Passport Office of the US State Department for the renewal of Ms. Spassport that led to the temporary restriction of Ms. Sability to seek international protection.

The above mentioned allegations appear to be in contravention of the rights of every individual to non-discrimination, liberty and security of person, physical integrity, privacy, identity, and effective recognition before the law, as laid down, inter alia, in articles 2, 3, 6, 7, 8, 12, 13, and 14 of the Universal Declaration of Human Rights, and articles 2, 6, 9, 12, 16, 17, and 26 of the International Covenant on Civil and Political Rights, to which the State is party since 8 June 1992. The right to equal recognition before the law is a central tenet for other rights and freedoms, which all depend on the identification of the individual to be actualized by the State bureaucracy. It is also a basic element in a well-functioning framework for protection and the first guarantee of State accountability. These rights are of universal nature and apply to everyone, irrespective of their sexual orientation or gender identity.

The Human Rights Committee found that States have a legal obligation to ensure to everyone the rights recognized by the Covenant without discrimination on the basis of sexual orientation or gender identity (CCPR/C/GC/35, paragraph 3). The Human Rights Council, through resolutions 17/19 and 27/32, has expressed grave concern at acts of violence and discrimination committed against individuals because of their sexual orientation and gender identity. On the basis of international human rights norms and standards and the work of the United Nations human rights treaty bodies and special procedures, the United Nations High Commissioner for Human Rights has emphasized that States have obligations to, inter alia, protect individuals from violence and discrimination on the basis of their gender identity, including conducting prompt, thorough investigations of incidents of hate-motivated violence and hate speech against LGBT persons, hold perpetrators to account and provide redress to victims, train law enforcement personnel and judges in gender-sensitive approaches to addressing violations related to gender identity; and issue legal identity documents, upon request, that reflect preferred gender, and eliminate abusive preconditions (A/HRC/29/23, para. 78).

We would also like to refer your Excellency's Government to 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5, 6 and 12. In this connection, we would similarly like to refer to the Human Rights Council resolution 31/32, which in paragraph 10 underlines the legitimate role of human rights defenders in mediation efforts and in supporting victims in accessing effective remedies for violations and abuses of their economic, cultural rights, including for members of impoverished communities, groups and communities vulnerable to discrimination, and those belonging to minorities and indigenous peoples.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 therefore 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 allegations.
- 2. Please provide the details, and where available the results, of any investigation carried out in relation to the allegations of death threats, acts of violence, intimidation and harassment against Ms. on the basis of her gender identity and legitimate work in the defense of human rights. If no inquiries have taken place, or if they have been inconclusive, please explain why.
- 3. In the event that alleged perpetrator(s) have been identified, please provide full details of any prosecutions undertaken so far.
- 4. Please provide information about any measures taken to ensure the protection of the rights to physical integrity, liberty, security and privacy of Ms. If no specific protection measures have been granted, please explain why.
- 5. Please explain what measures are being taken to ensure that Ms. can renew her passport without abusive requirements by State officials.
- 6. Please outline what measures have been taken to ensure that human rights defenders, including transgender rights defenders, can carry out their peaceful and legitimate work in a safe and secure environment.

While awaiting a reply, we respectfully urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence, to protect the physical integrity, security and privacy of Ms. and to guarantee her right to identity and equal recognition before the law. In the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of them.

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

Michel Forst Special Rapporteur on the situation of human rights defenders

Victor Madrigal-Borloz
Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity