

Mandates of the Working Group on Arbitrary Detention; 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 human rights of migrants; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on the human rights to safe drinking water and sanitation

REFERENCE:
AL OTH 63/2018

21 September 2018

Dear Mr. Türk and Ms. O'Hara,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the human rights of migrants; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 33/30, 33/9, 34/21, 32/2, 34/19 and 33/10.

In this connection, we would like to bring to your attention information we have received concerning allegations of acts of violence, harassment, and discrimination against lesbian, gay, bisexual and transgender (LGBT) refugees living in Kenya and their arbitrary arrests, detention, and ill-treatment. Allegations received also pertain to the lack of access to food and other basic necessities by the refugees while in detention and in Kakuma camp, as well as to the lack of appropriate access to HIV/AIDS-related prevention and care.

You will find attached copy of an allegation letter sent to the Government of Kenya with a view to seeking clarifications on the above mentioned allegations and requesting information, including on measures taken by the Kenyan authorities to address the safety and protection concerns of LGBT asylum seekers and refugees both within and outside the Kakuma camp, to prevent attacks, violence and to address root causes to prevent future incidents. The letter contains an annex 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, and given UNHCR mandate and role in promoting and ensuring refugee protection in host countries, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the allegations mentioned in the attached letter.
2. Please provide information on measures taken by UNHCR to address the safety and protection concerns of LGBT asylum seekers and refugees both within and outside the Kakuma camp.

3. Please provide information on actions taken by UNHCR operations in Kenya to take into consideration and address the specific protection risks of LGBT persons in the country, given the alleged stigma and discrimination they are facing from the host community, law enforcement officers, and other refugees.
4. Please explain the measures taken by UNHCR operations in Kenya to ensure non-discriminatory access to food, housing, health, and other basic necessities by LGBT refugees in Kakuma camp and in the capital, as well as to ensure that they have appropriate access to HIV/AIDS-related prevention and care on an equal basis with others.

We would appreciate receiving your observations within 60 days. Your 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 UNHCR to cooperate with the host government to address the safety and protection concerns of LGBT asylum seekers and refugees both within and outside the Kakuma camp.

Sincerely,

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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

Felipe González Morales
Special Rapporteur on the human rights of migrants

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

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

Léo Heller
Special Rapporteur on the human rights to safe drinking water and sanitation