

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

REFERENCE:
UA MUS 2/2019

3 May 2019

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 34/5, 32/2 and 32/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the physical and verbal assault of two lesbian women and of two LGBT human rights defenders associated with the *Collectif Arc-En-Ciel*, including Ms. **Sandrine Julien**.

Ms. Sandrine Julien is the vice-president of the *Collectif Arc-En-Ciel* (CAEC), which is an association based in Mauritius campaigning against homophobia and the various forms of discrimination linked to sexual orientation. Ms. Sandrine Julien has been part of the board of CAEC for almost five years, has represented the organisation at various international conferences, and participates in its advocacy and empowerment work.

According to the information received:

Two women who identify as lesbians reached out to the CAEC in September 2018 and more recently in March 2019, to seek assistance because their families subjected them to physical, verbal and psychological abuse, as a result of not accepting their sexual orientation. On 16 April 2019, the two women called the CAEC to request their immediate intervention as their situation had significantly worsened.

Ms. Sandrine Julien and a volunteer of the CAEC went to the family home of one of the women to bring her to a safe space at her own request. Upon arrival, they were initially blocked on the road by two policemen that had been called by the family. Family members started to intimidate and insult them and the woman who had called them. They cornered the woman and began to beat her violently. The same individuals then physically assaulted Ms. Julien and the CAEC volunteer, who suffered a cracked rib as a result.

Two policemen present at the scene, witnessed the entire incident. However, none of them intervened to stop the acts of violence, even though the CAEC members asked them for help.

The CAEC has not received any news about the two lesbian women that requested the organisation's assistance since the day of the assault, and their whereabouts are unknown, which is why there are serious concerns for their safety and wellbeing. On 17 April 2019, the organisation filed a complaint against the policemen who were present during the incident before the Independent Police Complaints Commission. On the same day, a complaint against the assailants was filed with the Central Investigation Division, and the police Family Protection Unit was informed about the case of the two women.

This was not the first attack against members of CAEC: in June 2018, around the annual pride march, various LGBT human rights defenders, including the former manager of CAEC, received death threats from an extremist group. The march had to be cancelled out of fear for the security of its participants.

We wish to express our deep concern with regards to the allegations of the physical and verbal assault of Ms. Sandrine Julien and the volunteer of the CAEC while attempting to rescue two members of the LGBTI community from their abusive homes. We equally express concern about the physical and psychological integrity of the two lesbian women who requested CAEC's urgent assistance and call on your Excellency's Government to ensure their safety.

We are further concerned that deeply entrenched stigma and prejudice, legitimized through laws criminalizing sodomy and reinforced by discriminatory laws, foster a climate where hate speech, family and institutional violence are condoned and perpetrated with impunity. As such, our concerns are heightened by the reports of the inaction of the two police officers present at the scene of the assault. We consider these allegations of extreme gravity as this may send the message that attacks against LGBT people and those who defend their rights are being tolerated in Mauritius and may encourage others to commit similar crimes.

Without prejudging the accuracy of the above alleged facts, we would like to remind you that the principles of equality and non-discrimination are part of the foundations of the rule of law and human rights. Sexual orientation and gender identity are prohibited grounds of discrimination under international law. Under article 1 of the Universal Declaration of Human Rights, '[a]ll human beings are born free and equal in dignity and rights', and '[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language,

religion, political or other opinion, national or social origin, property, birth or other status' (article 2 of the Declaration).

We would also like to recall resolutions 17/19, 27/32 and 32/2 of the Human Rights Council, expressing grave concern for 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 recommended that States, inter alia, ensure that anti-discrimination legislation includes sexual orientation and gender identity among prohibited grounds; enact hate crime laws that establish homophobia and transphobia as aggravating factors for purposes of sentencing; conduct prompt, thorough investigations of incidents of hate-motivated violence against LGBT persons, holding perpetrators to account, and providing redress to victims; prohibit incitement of hatred and violence on the grounds of sexual orientation and gender identity, and holding to account those responsible for hate speech (A/HRC/29/23, para. 78 (a)(b)(d) and 79(c)).

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 7 and 12.

Finally, we would like to also recall that the International Covenant on Civil and Political Rights provides in its Article 20(2) that States must prohibit by law and to ensure full enforcement of the law against every incident of advocacy of hatred that constitutes incitement to discrimination, hostility or violence in accordance with article 20(2), which is further provided for by the Human Rights Committee in paragraph 8 of its General Comment No. 34.

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

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

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 provide the details, and where available the results, of any investigation carried out in relation to the allegations about the physical and verbal attack against the two lesbian women and the LGBT defenders described above. If no inquiries have taken place, or if they have been inconclusive, please explain why;
3. Please indicate what measures have been taken by your Excellency's Government to ensure the physical and psychological safety of the two lesbian women and of people associated with the CAEC;
4. Please provide information on any other measures taken by the authorities to prevent acts of discrimination, incitement, hostility and violence against members of the LGBT community in Mauritius, and the community itself;
5. Please indicate what measures have been taken to ensure that defenders of the human rights of LGBT people in Mauritius are able to carry out their peaceful and legitimate work in an enabling environment;
6. Please indicate what measures have been taken to foster an inclusive and diverse society, including by raising awareness through sensitization campaigns on the discrimination and violence based on sexual orientation and gender identify.

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 responsible of the alleged violations.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Dubravka Šimonović
Special Rapporteur on violence against women, its causes and consequences

