

Mandates of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Working Group of Experts on People of African Descent; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Special Rapporteur on violence against women, its causes and consequences and the Working Group on discrimination against women and girls

Ref.: AL BRA 11/2021
(Please use this reference in your reply)

29 October 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Working Group of Experts on People of African Descent; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Special Rapporteur on violence against women, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 43/36, 45/24, 43/4, 41/18, 41/17 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of incidents of political violence against Afro-Brazilian women, particularly transgender Afro-Brazilian women, in Brazil.

According to the information received:

In 2020, municipal elections took place in Brazil and acts of electoral and political violence were reported. However, political violence is not limited to elections and has become a more general issue, aimed at preventing representatives of some groups, including Afro-Brazilian women and particularly transgender Afro-Brazilian women, from accessing representative and decision-making positions. Political and electoral violence is not isolated and has been reportedly used as a tool to obtain and maintain power, barring access of underrepresented groups, including Afro-Brazilian women and LGBTI women. During 2020, there were reports of death threats and threats against the physical integrity and free exercise of political rights of Afro-Brazilian women, with specific transphobic threats and hate speech directed against transgender Afro-Brazilian women. According to a survey carried out during the 2020 elections in Brazil, 98.5% of the Afro-Brazilian women candidates that participated in the survey reported that they suffered at least one type of political violence. It was estimated that 80% of this violence occurred on the internet, including threats, as well as racist, sexist and transphobic expressions. In some cases, the violence included religiously motivated racist comments targeting Black candidates practicing religions of African origin. 43% of women reported they received racist and sexist comments and attacks. Respondents to the survey also expressed that they do not trust the existing complaint mechanisms available; only 30% of the candidates reported the incidents. In addition, 29.3% of the respondents

identified their aggressors as opponent candidates, individuals or militant groups from opposing political parties, in some cases espousing neo-Nazi, racist or anti-feminist ideologies.

During the electoral period, an Afro-Brazilian woman candidate reported being assaulted in the street by a militant from an opposing party, who shot a gun in her direction. Afro-Brazilian candidates reported acts of violence during their campaigns and transgender candidates also reported threats, including death threats and invasions of their privacy. Transgender political candidates also reported that they were victims of virtual campaigns of transphobic insults, intimidation, transphobic racism and denigration of transgender political participation

Emblematic cases of violence against Afro-Brazilian women and transgender women

In 2020, throughout the municipal electoral campaigns and after the election, there were a series of attacks against Afro-Brazilian women political candidates, particularly transgender Afro-Brazilian women; many of these women were also active human rights defenders fighting against racism and gender discrimination. The attacks were allegedly aimed at preventing the realization and exercise of political rights of black women and transgender women.

Case of Benny Briolly

Benny Briolly is an Afro-Brazilian transgender woman, originally from Niterói. Last year, she ran for city councillor in Niterói for the Socialism and Liberty Party (PSOL) and was the first transgender woman to be elected for that position. Since college, she has been involved in social movements, such as “Education is not Merchandise”. In 2016, she built the campaign “A Black, Feminist, LGBT and Popular Niterói” which culminated in the election of Talíria Petrone as the most voted woman councillor of the city of Niterói. Benny Briolly became the first transgender woman advisor to the Niterói City Council. She worked in the Human Rights Commission for Children and Adolescents, where she promoted activities to respect the rights of transgender people, including their right to health, right to work and right to participate in the political process. She has also been involved in solidarity campaigns during the pandemic. As president of the Human Rights Commission for Children and Adolescents, she has denounced the entrenchment of violent actions of the police in the favelas. As the first transgender woman working as a parliamentary advisor, she became a victim of threats and aggression. It is reported that her image was circulated within hate groups on social media, with comments such as “*You deserve to die*” and “*I’m going to beat you up*”. In 2018, during a public demonstration called “Not Him”, organized by women and feminist social movements against the candidacy of President Bolsonaro, it is reported that the police tried to arrest Ms Briolly because she was not carrying her identity card. After this incident, police officers entered her home during the night without a warrant and told her that they were looking for her neighbour. However, accounts indicate that one of the police officers made a comment implying that he knew who she was. A few days after, there was another police operation in her neighbourhood, and police

officers occupied her balcony. It is alleged that, in order to protect herself, she moved to another residency for safety reasons.

On 29 December 2020, councillor Douglas Gomes reportedly incited his constituents to attack Councillor Benny Briolly during an event described as furthering extreme right-wing views. As a result, she received transphobic and racist messages, including death threats. Other Afro-Brazilian women who were members and candidates of progressive political parties also report having received similar messages and threats.

Reports indicate that on 25 March 2021, councillor Douglas Gomes, at the plenary session of the City Council of Niterói, made a racist and transphobic speech against Benny Briolly. He presented a motion of repudiation against the Movement of Homeless Workers, the Popular Brazil Front and the People without Fear Front. After his speech, Councillor Briolly gave a speech denouncing the attacks from Councillor Gomes against her and the social movements. Mr. Gomes requested the right to reply. During his speech, he referred to Ms. Briolly as male, disrespecting her gender identity and making racist and denigrating comments against her.

After this incident, she reportedly continued to receive messages of harassment and threats. In May 2021, for her safety, she decided to leave the country for some time in order to feel secure in continuing her parliamentary function. In the meantime, she was accepted into the Programme for Human Rights Defenders and protection and security measures have begun to be implemented. However, it is alleged that the protection programme has not been able to provide her with adequate protection due to the lack of financial resources, and that she is still at high risk. In this regard, she recounts that it was recommended that she does not participate in political and public events, making her official function unfeasible. In addition, members of her staff and supporters have also reported a constant feeling of insecurity when moving around in the city and participating in public events.

Case of Ana Lúcia Martins

Ana Lúcia Martins is an Afro-Brazilian social movement activist who, in 2020, ran in the municipal election of Joinville as a candidate of the Workers Party for the position of city councillor. She is the first Afro-Brazilian councillor to be elected in Joinville City. Since the announcement of the results in November 2020, Councillor Martins has reportedly received racist attacks and death threats on the internet. All the attacks and threats have been registered and forwarded to the police. An investigation was initiated by the Joinville Police, and a suspect was identified. However, the investigation has not yet concluded. A search warrant was issued against the suspect. After a press conference held by the police department, a new series of death threats and racist insults were reported against Councillor Martins. During the same period, Councillor Benny Briolly and Federal Deputy Talíria Petrone, both from the Socialism and Liberty Party, reported having received similar messages.

In response to advocacy from human rights organisations, in June 2021 the General Coordination Office for the Protection of Witnesses and Human

Rights Defenders included Councillor Martins in the Programme for the Protection of Human Rights Defenders, Journalists and Environmentalists (PPDDH). However, it is alleged that her inclusion in the programme has not been effective and she remains in a situation of insecurity and without guaranteed protection.

Case of Talíria Petrone

Talíria Petrone is an Afro-Brazilian woman, feminist, socialist and history teacher. In 2010, she became member of the Socialism and Liberty party. In 2016, she was elected member of the City Council of Niterói and became president of the Human Rights Commission for Children and Adolescents. It is reported that in 2017 she became subject to daily threats and offenses that were racist and sexist. She received messages such as “*you deserve to die with a shot in the face to spoil the wake*”. In March 2018, following the murder of councillor Marielle Franco, the threats against Talíria Petrone reportedly increased. After her election to the Chamber of Deputies in 2019, she received more threats and became the target of inflammatory hate speech. In April 2019, while she was at her apartment in Brasilia, the Police Department of the Chamber of Deputies contacted her to alert her of the risk of a possible attack and advised her to stay at home. According to the information received, Talíria Petrone has had to move and does not have adequate and effective protection from the State. She lives under threat for using her position to defend the rights of Afro-Brazilian people and to promote human rights.

Programme for the protection of human rights defenders and shortcomings in its activation for cases of gender and racial political violence

According to the information received, the Programme for the Protection of Human Rights Defenders in Brazil is currently marked by uncertainty regarding its continuity. 20 States of the Federation do not have protection programmes, despite the growing number of reported threats and attacks against human rights defenders. Currently there is no legal framework for the implementation a National Policy on the Protection of Human Rights Defenders. The protection programme depends on the political will and projects of local governments. Allegedly, the decision as whether to include human rights defenders in the Programme is at times reportedly prone to becoming political and ends up responding to racist and transphobic stereotypes. In the case of Councillor Benny Briolly, even with serious threats to her life and integrity, her inclusion in the programme was reportedly accepted only after a broad outcry from political actors and people committed to the defence of political rights of Afro-Brazilian transgender women.

Another reported element of instability in the programme’s operation is the inexistence of a legal framework for its principles and rules of operation. The programme has been framed in Decree No. 8724 of April 27, 2016 and Decree No. 9937 of July 24, 2019, which were issued by the Executive branch and elaborated and approved without a broad participatory process. The high turnover of technical teams also reproduces insecurity in the programme’s relationship with human rights defenders. With regard to financial resources allocated to the programme, there has been no significant increase in the budget in the last three years, even though the situation of human rights

defenders in Brazil continues to be worrisome. In practice, not enough funds are allocated for protection equipment or to support the specific needs of human rights defenders. Sometimes, funds allegedly end up being reallocated at short notice within local governments, to avoid returning unused funds to the Federal Government.

The programme is not equipped to deal with the complexity of violence and risks faced by human rights defenders who were elected to representative political positions. There are still no specific actions and protocols to combat and respond to political violence within the National Policy for the Protection of Human Rights Defenders or the Protection Programme. According to the information received, the Programme for the Protection of Human Rights Defenders has not been able to offer effective protection to City Councillors Benny Briolly and Ana Lúcia Martins and Federal Deputy Talíria Petrone.

Although we do not wish to prejudge the accuracy of the above information, we would like to express our serious concern regarding increased political violence against Afro-Brazilian women, and in particular, transgender Afro-Brazilian women. We are seriously concerned that the persistent racist, sexist and transphobic attacks against Afro-Brazilian women who are political candidates, politicians or who have been involved in political processes constitutes a violation of the fundamental principle of non-discrimination in international human rights law. We are concerned about the security of City Councillors Benny Briolly and Ana Lúcia Martins and Federal Deputy Talíria Petrone, who have been victims of constant racist, sexist and transphobic threats, hate speech and messages. This form of political violence against Afro-Brazilian women and particularly transgender Afro-Brazilian women reveals the pervasive structural and institutional racism entrenched in Brazilian civil society, as well as the persistent forms of intersectional discrimination against women and discrimination based on sexual orientation and gender identity which continue to prevent their equal political participation and representation in decision-making processes.

International human rights law is based on the premise that all persons, by virtue of their humanity, should enjoy all human rights without discrimination on any grounds. Additionally, the International Convention on the Elimination of Discrimination against Women (CEDAW) similarly guarantees women's right to participate in public life without discrimination. The treaty monitoring bodies of these Conventions and many other international human rights mechanisms have further interpreted international human rights law as prohibiting discrimination on the basis of sexual orientation and gender identity.

As such, the failure to adequately guarantee the physical security of Afro-Brazilian women and the failure to effectively prevent and remedy racist, sexist and transphobic death threats and harassment against them could constitute a violation of these women's rights under international human rights law. The aforementioned cases raise serious concerns that Afro-Brazilian women, particularly transgender Afro-Brazilian women, are facing violations of their rights to life and physical security due to political violence. It is especially troubling that these cases involve instances of hate speech and harassment emanating from public officials and law enforcement, as well as hate speech, death threats and violence from private parties. We note with alarm the racist, sexist and transphobic nature of the threats recounted above, in contravention of the fundamental non-discrimination principle of international human

rights law.

We are concerned that these cases illustrate impunity for racist hate speech directed against Afro-Brazilian women who are candidates, elected officials and political activists. We especially note that the allegations above involve hate speech perpetuated and instigated by public actors; upon the information received, such hate speech has caused politically active Afro-Brazilian women, and particularly transgender Afro-Brazilian women, to fear for their physical security, curtail their political activities, change residences, and even flee Brazil.

It is a fundamental principle of international human rights law that all persons have the right to participate in political processes without discrimination. Participation in the political process and public life are guaranteed by article 5 of ICERD, article 25 of the ICCPR, and article 7 of CEDAW. The Committee on the Elimination of Racial Discrimination has reiterated in its General Recommendation 34 on people of African descent that States must ensure that authorities at all levels of government respect the right of members of communities of people of African descent to participate in decisions that affect them. States should take special and concrete measures to guarantee people of African descent the right to participate in elections, to vote and stand for election on the basis of equal and universal suffrage and to have due representation in all branches of government. It is especially troubling that the pattern of abuses alleged above show both public officials and private parties using violence, intimidation, threats and harassment to prevent or limit the political participation of Afro-Brazilian women. To the extent that threats, hate speech, and inadequate protection measures prevent Afro-Brazilian women, particularly transgender Afro-Brazilian women, from fully exercising their rights of political participation, political expression and access to public life, there is an ongoing State obligation to prevent such violations by both public and private actors and provide redress to the affected parties.

The political violence referenced above has been directed particularly against political figures who have advocated against racism, gender discrimination and transphobia. We would like to refer your Excellency's Government to the fundamental principles set forth in 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. We are seriously concerned that the measures in place to protect Afro-Brazilian women human rights defenders have proved ineffective or been subject to discriminatory delay and note with concern the allegations concerning the lack of clarity, instability and incapacity of the Programme for the Protection of Human Rights Defenders, specifically when it comes to cases of racist, sexist and transphobic political violence.

In light of the issues raised above, States must also ensure that any person whose recognized rights or freedoms are violated shall have an effective remedy without discrimination, notwithstanding whether the violation has been committed by persons acting in an official capacity.

We wish to emphasize that these allegations illustrate intersectional experiences of discrimination and that Afro-Brazilian women possess multiple intersecting social identities on the basis of their race, colour, sexual orientation, gender identity and other social status that directly shape their experiences of

discrimination. We encourage your Excellency's Government to consider these intersecting social identities in countering hate speech, death threats and other politically motivated violence against them and in providing adequate protection and redress to victims of these violations.

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 provide information as to the results of any investigation(s) that may have been carried out following complaints made by Councillors Benny Briolly and Ana Lúcia Martins and Federal Deputy Talíria Petrone in relation to the racist, sexist and transphobic attacks made against them. If no such investigation(s) has taken place, please explain how this is compatible with the Government's responsibilities under international human rights law.
3. Please provide information as to any protective measures which may have been offered to Councillors Briolly and Martins, as well as Federal Deputy Petrone, in light of the above-mentioned threats and harassment.
4. Please provide detailed information as to measures taken by your Excellency's Government to ensure that human rights defenders in Brazil, in particular those working to combat racism, racial discrimination and sexism, as well as discrimination based sexual orientation and gender identity, can work free from violence, harassment, threats and attempts on their lives and attempts to inflict bodily harm.

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.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned

allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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xenophobia and related intolerance

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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by your Excellency's Government on 27 March 1968. In particular, we would like to refer to article 2, paragraph 1 which provides the obligation to States Parties to condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races. In addition, article 4 (b) of the Convention holds that State parties shall declare an offence punishable by law all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin. Article 5 provides that State parties have the obligation to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; and political rights, in particular the right to participate in elections, to vote and to stand for election, as well as to take part in the Government, in the conduct of public affairs at any level and to have equal access to public service. Article 6, wherein it is stated that State parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and State institutions, against any acts of racial discrimination which violate his or her human rights and fundamental freedoms.

The Committee on the Elimination of Racial Discrimination has reiterated in its General Recommendation 34 on people of African descent the obligation of States to ensure that authorities at all levels respect the right of members of communities of people of African descent to participate in decisions that affect them. States should also take special and concrete measures to guarantee people of African descent the right to participate in elections, to vote and stand for election on the basis of equal and universal suffrage and to have due representation in all branches of government. In General Recommendation 35 on combatting racist hate speech, The Committee states that “the identification and combating of hate speech practices is integral to the achievement of the objectives of the Convention — which is dedicated to the elimination of racial discrimination in all its forms” the State obligations. The Committee is aware of the special importance of freedom of speech in political matters and that its exercise carries with it special duties and responsibilities. The Committee has, therefore, drawn attention to the role of politicians and other public opinion formers in contributing to the creation of a negative climate towards groups protected by the Convention, and has encouraged such persons and bodies to adopt positive approaches directed to the promotion of intercultural understanding and harmony.

We would like to refer to your Excellency's Government obligations under the International Covenant on Civil and Political Rights, which was acceded by Brazil on 24 January 1992. Under article 2 of the Covenant, States Parties have the obligation to respect and to ensure for all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, 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. States shall also ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity. We also refer to article 6(1), which protects the right to life and article 25 protecting political rights.

We would like to refer to Human Rights Committee General Comment No. 36, wherein the Committee stated that the obligation upon States Parties to respect and ensure the right to life extends to reasonably foreseeable threats, including those emanating from private persons and entities. The duty to protect the right to life requires State parties to take special protective measures for persons in situations of vulnerability who have been placed at particular risk because of specific threats, including human rights defenders. Following the Committee, State Parties must respond “urgently and effectively” in order to protect individuals who find themselves under a specific threat, including by adopting special measures such as the assignment of around-the-clock police protection. States Parties may be in violation of article 6 even if such threats and situations do not result in loss of life.

We would also like to remind your Excellency’s Government that Article 19(3) of the ICCPR, relating to the right to freedom of opinion and expression, includes “the right to seek, receive and impart information and ideas of all kind, regardless of frontiers” and in any form of media. Article 19 requires that any restriction on the right to freedom of expression (i) is provided by law; (ii) serves a legitimate purpose; and (iii) is necessary and proportional to meet the ends it seeks to serve. In this connection, we also wish to recall the principle enunciated in Human Rights Council Resolution 12/16. The Resolution calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups. We also underline that permissible restrictions on the internet are the same as those offline (A/HRC/17/27).

The Human Rights Committee stated that article 19(3) could never be invoked as a justification for muzzling advocacy of multiparty democracy, democratic tenets or human rights, nor, in any circumstance, could an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19.¹ Together with the freedom of opinion, the right to freedom of expression is a prerequisite for every free and democratic society. The Human Rights Committee has affirmed that the free communication of information and ideas about public and political issues is essential, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.²

We also recall Brazil obligations under the International Convention on the Elimination of All Forms of Discrimination against Women, ratified on 1 February 1984, in particular article 7, which gives the obligation to States Parties to take all

¹ [\(CCPR/C/GC/34\), para. 23](#)

² (CCPR/C/21/Rev.1/Add.7) para. 25; see also *id.* para. 20.

appropriate measures to eliminate discrimination against women in the political and public life.

We would like to further recall that general recommendations No. 19 and 35 of the CEDAW Committee recognize gender-based violence against women as an important manifestation of discrimination against women that can have a harmful effect on their ability to access other rights, including those related to public and political life. In her report on violence against women in politics (A/73/301), the Special Rapporteur on violence against women, its causes and consequences emphasized the harmful consequences of violence against women in the context of elections, and pointed to the commonality of such violence being directed or orchestrated by political parties. She stressed that States have due diligence obligations to prevent, investigate and punish acts of violence against women, whether they are perpetrated by State or non-State actors. States, therefore, have a duty to eradicate and prevent acts of violence against women in politics. In the same report, the Special Rapporteur had noted how some women in politics may be more exposed to risks of gender-based violence, including transgender activists and members of minority groups, among others. She clarified that the goal of this violence is to discourage women from being politically active and exercising their human rights, and prevent the participation of individual women as women as a group. Finally, she reminded how the killing of Afro-Brazilian human rights defender Marielle Franco showed how the intersection of gender, race and participation in public life can imperil activist women; and stressed that reports of threats, harassment or other forms of gender-based violence are frequently dismissed by the authorities, and particularly the gender-specific dimensions of the violence faced by women in politics.

As stressed by the Working Group on discrimination against women and girls in one of its reports to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

We would also like to refer your Excellency's Government to the fundamental principles set forth in 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, we would like to recall articles 1 and 2 of the Declaration, which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We would furthermore like to make specific reference to article 12(2) of the Declaration, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure

adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.