

Mandates of the Working Group on discrimination against women and girls; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL BRA 1/2023
(Please use this reference in your reply)

6 April 2023

Excellency,

We have the honour to address you in our capacities as Working Group on discrimination against women and girls; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 50/18, 43/4, 51/21, 43/16 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **intimidation of three women journalists and human rights defenders for covering a case of a girl victim of rape, whose sexual and reproductive health rights have reportedly been violated.**

We addressed our concerns regarding the enjoyment of sexual and reproductive health rights in our previous communication to Brazil ([OL BRA 9/2020](#)). We are grateful to your Excellency's Government for the reply received. However, we remain concerned about the situation of women and girls whose access to sexual and reproductive rights is restricted. Several Special Procedures mandate holders publicly expressed concern about denial of abortion services and the prohibition of torture and cruel, inhuman and degrading treatment (see [Amicus Brief](#) sent in 2017).

According to the information received:

In May 2022, a 10-year-old girl of African descent from the southern Brazilian state of Santa Catarina, who was a victim of sexual violence, discovered she was pregnant. The Brazilian legislation sets forth that individuals younger than 14-years-old cannot give consent to sexual activities, therefore the girl-child is defined per se as a victim of rape (Criminal Code, article 217-A and Sumula STJ 593/2017).

Two days later, her mother took her to a public hospital to terminate the pregnancy, estimated to be at 22 weeks. The Criminal Code allows for abortion in two cases (article 128, items 1 and 2): (1) if there is no other means to save the life of the pregnant woman, and/or (2) if the pregnancy is a result of rape, and the abortion is practiced with the consent of the pregnant individual or their representative. In 2012, the Supreme Court also established that abortion is allowed in cases of anencephaly (ADPF 54/DF). Nevertheless, the hospital,

citing a Ministry of Health guidance, reportedly refused to perform the abortion alleging immediate risk of maternal death and referring to the advanced gestational stage, citing a 20-week limit. The healthcare professionals informed the girl-child and her mother that in any case judicial authorization for the pregnancy interruption would be required.

The family of the girl-child, through legal representation, requested judicial authorization for the pregnancy termination. Subsequently, the judge, agreeing to a request of the Public Prosecutor's Office of the State of Santa Catarina, ordered the pregnant girl-child to be separated from her family and placed in a State shelter, citing protection from her assailant as the reason. Subsequently, the Court also based the order on the need to protect the life of the fetus. On 9 May 2022, at the judicial hearing, the judge and the public prosecutor reportedly put pressure on the girl-child and her family to continue with the pregnancy and suggested adoption of the unborn fetus. The pregnant girl-child was also submitted to invasive, exhausting interrogation, using deceitful arguments about the abortion procedure and information about the fetus. She was not informed about her legal right to abortion, and risks associated with a pregnancy experienced by a 10-year-old, such as profound anemia, pre-eclampsia, higher risk of hemorrhage, hysterectomy, and lasting trauma. Despite requests from the mother and the girl-child that she be allowed back home, the girl-child was kept in the State shelter.

In June 2022, the Ministry of Health issued new guidelines for the interruption of pregnancies. The guidelines state that "legal abortions do not exist in Brazil" and that notification in cases of requested abortion in the case of rape are to be reported by health professionals to the police authorities, such notification being mandatory.

On 20 June 2022, a series of reports about the case, including details about the judicial hearing of 9 May 2022, written by journalists Paula Guimarães (*Portal Catarinas*), Bruna de Lara and Tatiana Dias (*The Intercept*) were published online. While the judicial hearing was not public, the journalists obtained video recordings from anonymous sources. These videos showed the pressure put on the girl-child victim of rape and her family. At the time, the pregnant girl-child was still residing in a shelter, where she had been staying for more than 40 days.

On the same day, the Federal Prosecutor's Office opened an investigation on the procedures adopted by the hospital, and, on 22 June 2022, issued a recommendation to the hospital to carry out the procedure of interruption of pregnancy of the girl-child, regardless of the gestational week/stage of the pregnancy. She was able to access the service on the same day. The Judiciary and the Public Prosecutor's Office opened administrative investigations to assess the actions of the Judge in the case. On 24 June 2022, Santa Catarina's Public Prosecutor ordered that the remains of the fetus be collected as evidence.

On 28 June 2022, State representatives requested the opening of a Parliamentary Commission of Inquiry (CPI, by its acronym in Portuguese) within the State Assembly of Santa Catarina, the legislative body in that state, to investigate the legality of the abortion. It was announced that the focus of the investigation

would be on the pregnant girl-child and her family, medical professionals, as well as on the journalists who publicized the case. The request considered it was necessary to verify how the journalists obtained access to relevant, confidential and very serious information.

On 4 July 2022, the Attorney General's Office informed that it was conducting investigations regarding the violation of secrecy and/or breach of procedural confidentiality, resulting from the disclosure of data and testimony contained in the records. The journalists who published the case were reportedly placed under the investigation and faced verbal attacks and harassment as a result of their publication and documentation of cases regarding the lack of sexual and reproductive health rights.

On 19 July 2022, the President of the Assembly of Santa Catarina granted the request about the establishment of the CPI. The CPI gave the Assembly of Santa Catarina as legislative branch powers similar to judicial authorities, with the effect of being able to curtail fundamental rights and freedoms, including freedom of expression and media, and threaten the confidentiality of the source in the context of journalistic work.

The meetings, documents and all relevant information about the CPI were considered confidential and not available to the public, but a summary of findings was published on 15 December 2022 by Santa Catarina's State Assembly.

The findings of the CPI frame the interruption of pregnancy of the girl-child as "illegal", and the professionals involved in providing access to it as an organization with illicit intents, composed of health professionals, lawyers, feminist organizations, and journalists, described by the Commission as "an institutionalized engineering of evil." The CPI also found that *Portal Catarinas* and *The Intercept* leaked confidential information.

The full report was shared with the Public Defendant's Office of Santa Catarina, the Bar Association, the Court of Justice of Santa Catarina, the Public Prosecutor's Office of the State of Santa Catarina, and the Federal Prosecutor's Office.

On 8 March 2023, the findings of the CPI were presented at a public event in the State Assembly of Santa Catarina.

In 2021, the number of attacks on journalists and media members reached the highest level since the 1990s. There were 430 attacks on press freedom. 119 attacks against women journalists and gendered attacks against professionals of the press were registered in 2021 in Brazil. Only 10 journalists are included in the State Human Rights Defenders Protection Programme. The journalists reporting on sexual and reproductive health rights, violence against women and girls and LGBTIQ+ rights have been targeted, and verbally and physically assaulted. *Portal Catarinas* has faced attacks and threats in the past, in connection to the coverage of sexual and reproductive health rights. In March 2021, the feminist news portal was offline for days due to a massive online

distributed denial of service (DDoS) attack, through which bots based in the United States, Singapore, France, Germany, and the Netherlands were used to overload servers. To this day, the consequences of the attack affect *Portal's* website stability and its ability to disseminate relevant information on women's rights, thus restricting its members' freedom of opinion and expression, as well as the public's right to be informed. Journalists covering sexual and reproductive health rights in Brazil fear that the ongoing efforts to further restrict access to abortion in the country could lead to additional attacks, perpetrated by both public and private actors, and thus affect the freedom of the press.

In January 2023, the Ministry of Health, Ministry of Human Rights, and Ministry of Women at the national level announced an intent to review the Brazil's position on abortion. This included revoking the 2022 Ministry of Health guidelines that framed all abortions as a crime. Nevertheless, within the Legislature (at national and state level) and in the Judiciary, efforts and practices that restrict access to the interruption of pregnancy continue to be observed, such as appointing legal representatives to defend the alleged interests of fetuses in cases brought to the attention of Courts. These efforts include the repetitive attempts to pass legislation at national level restricting abortion, such as the Estatuto do Nascituro – PL 478/07 (the latest attempt having taken place in December 2022), as well as bills introduced at state level to include the defense of the fetuses in the competences of state Public Defender Offices. Such bills have been approved in the states of Amazonas (LC 241/2022), Rio de Janeiro (LC 203/2022), and Paraná (LC 248/2022), and would put in place obstacles to the legal interruption of pregnancies, especially in cases of girl-children pregnant as a result of rape, considering that in such cases pregnancies usually take longer to be identified, thus leading to increased risk of criminalization of the victim and over judicialization of the procedure.

In the state of Piauí, despite the absence of such legislation, in October 2022 a judge appointed a Public Defender to represent the interests of the fetus on the case of a 12-year-old girl-child of African descent pregnant for the second time. In this case, access to abortion was not granted by the Court of Appeals of the state of Piauí, and the girl-child was placed in a public shelter, affiliated with a faith-based Catholic organization, together with her 1-year-old baby. By February 2023, she had been staying in the shelter for more than four months, still pregnant. The case was once again revealed by a collaboration between *The Intercept* and *Portal Catarinas*, and presented in a public hearing at the Inter-American Commission on Human Rights on 8 March 2023.

Information has also been supplied that there are systemic obstacles to age-appropriate Court proceedings, which disregard the will of the pregnant girl-child, and survivors/victims of sexual violence and their families are at risk of being subjected provided with incorrect or misleading information and pressured to keep the pregnancy. Additionally, legal and health services are often concentrated in city centers, which pose additional obstacles to people who do not live in that area and cause delays in access to information and safe and timely abortions.

From 2010 to 2019, 252,786 girl-children aged 10-14-years old gave birth to other children in Brazil, which represents one birth every 20 minutes during that period. In 2018, women and girls of African descent were 65% of the total of victims of maternal deaths – an estimated 92% of the total maternal deaths that were avoidable. Children aged 0-13 years old were 61.3% of victims of total number of rapes in Brazil in 2021; among victims of rape in the country in 2021, 52.2% were of African descent and 88.2% were female. Civil society organizations reported a 45% reduction in the availability of legal abortion services in Brazil during the COVID-19 pandemic. According to *Pesquisa Nacional de Aborto* (PNA 2021), half a million of abortions take place in Brazil every year, and 43% of women who underwent abortion needed to be hospitalized due to health complications. One in seven Brazilian, aged 40 and above, has undergone at least one abortion in her life; 52% of abortions took place when these women were younger than 19 years. A fifth of women has had more than one abortion and among this group, 74% are women of African descent. Women and girls of African descent are most affected by efforts to restrict access to abortion and sexual and reproductive health and rights in Brazil.

Without prejudging the accuracy of these allegations, we express our most serious concern about the allegations which, if confirmed, would show a persistent trend of violence against women and girls who do not have access to their right to reproductive health care in Brazil on account of many systemic barriers, which appears to affect in particular women and girls of African descent. Of extreme concern is the alleged removal of pregnant girl-children, who are in a vulnerable situation due to their age and circumstances, and placement in shelters separated from their parents or guardians and family. This would appear to be in contravention of the best interests of the child, their right to family life, and the liberty and security of person, without proper judicial oversight. The mere fact of being pregnant and seeking an abortion is not a ground for removing or separating a girl-child from her parents, guardian or family.

From a freedom of expression perspective, the allegations would entail violations of rights of journalists to carry out their work free from retaliation and intimidation. We are also concerned at a profound chilling effect that the judicial investigation concerning the three women journalists reporting about the case may cause for other media workers reporting on human rights related issues.

We are particularly concerned that these allegations would constitute a violation of the very core of a woman's fundamental rights to equality, physical and psychological integrity and privacy. We remain concerned about the situation of women and girls whose access to sexual and reproductive health rights is restricted, reflecting also the broader findings outlined in the 2021 thematic report of the Working Group on discrimination against women and girls, entitled 'Women's and girls' sexual and reproductive health rights in crisis' (A/HRC/47/38).

In the context of sexual and reproductive health rights, we reiterate our concerns that, if the facts are confirmed, such rights continue to be violated despite the existence of article 128 of the Brazilian Penal Code which authorizes the legal termination of pregnancy when "there is no other way to save the pregnant woman's life, and if the pregnancy results from rape." In this regard, we are also concerned that a girl-child,

victim of rape, faced obstacles in accessing a legal termination of pregnancy reflecting the discrimination that women and girls often suffer with respect to access to health services. We are extremely concerned that a 10-year-old victim was expected to give birth, despite the fact that continuation of pregnancy and childbirth may have threatened her life and her health, and widely available evidence that adolescent mothers (aged 10–19 years) face higher risks of eclampsia, puerperal endometritis and systemic infections ([WHO](#)). Girls aged 15-19 years are twice as likely to die during childbirth as women 20 years old and above ([UNFPA](#)). Restrictions on access to safe abortion, a reproductive health service predominantly required by women and girls, are discriminatory. The subjection of women and girls to unnecessary barriers to essential reproductive health care is degrading treatment and fuels abortion stigma, which in turn contributes to a prohibitive and punitive environment fraught with intimidation and violence. In particular, denying abortion to pregnant women and girls resulting from rape and incest risks exacerbating their trauma as well as their mental and physical suffering, thereby subjecting them to additional psychological forms of violence which may also constitute torture or cruel or inhuman suffering.

While the safety of all journalists is under pressure, women are at much higher risk of sexualized violence, disinformation and smear campaigns, both online and offline, including doxing, aimed at silencing them. We are concerned about women journalists facing physical and psychological violence, in relation to the performance of their journalistic work. Such attacks on female journalists often compel women to self-censor, excluding women from political discourse, jeopardizing their freedom of expression and society's right to be informed.

We are also concerned that the CPI is an instrument that provides a state legislative branch powers similar to those of judicial authorities, implying prerogatives that have the potential, in this case, to curtail fundamental rights and freedoms - such as breaking the secrecy of telecommunication communications, an extremely damaging practice disregarding the confidentiality of the sources of journalistic work. As the work and documents of the CPI are kept confidential, no information is available as to whether the investigations determined the break of secrecy of such communications. Additionally, we are concerned that by investigating the victim's private life and the actions of medical staff, the CPI further revictimized the victim and her family, and it may have had an adverse effect on other professionals providing access to sexual and reproductive health rights and legal abortion services. The CPI may also intimidate and criminalize journalists who bring to light situations of human rights violations. We are concerned that, in the CPI as well as in judicial cases pertaining to young girls, secrecy has been imposed as a means to restrict girls' right to abortion and to prevent access to information of public relevance, thus posing obstacles to the freedom of the press and to the work of women human rights defenders.

We are encouraged by Brazil's commitments during the third UPR cycle to ensure access to reproductive health care, including high-quality prenatal care, and information on sexual and reproductive health, contraception and emergency contraception, safe abortion to all women without discrimination, and guarantee the safety of human rights defenders and journalists as they carry out their tasks by accepting the corresponding recommendations (A/HRC/52/14). We urge the Government to pay closer attention to the human rights violations and ill-effects of unnecessary restrictions on access to comprehensive reproductive health, including

abortion, on women and girls and on those who report such wrongdoings and call for investigation and implement the recommendations in a close collaboration with women's human rights groups

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 whether any investigation into the rape of the girl-child has been launched, and if so, what were the measures and actions taken.
3. Please indicate more details regarding CPI, its current status and results, and if the State of Santa Catarina or any other competent authority intends to press charges against the girl-child and her family, healthcare professionals, lawyers, journalists and other human rights defenders who worked on the case to ensure access to abortion.
4. Please indicate what measures have been taken to ensure that journalists in Brazil can report on alleged human rights violations without fear of retaliation, especially women journalists covering sexual and reproductive health rights.
5. Please indicate all steps being taken in Brazil to ensure that women's and girls' human rights, in particular their sexual and reproductive health rights, their right to physical and mental integrity, and their right to equality and non-discrimination, especially from the perspectives of rights of the child in the case of girls and Afro-descent persons, are duly protected in the healthcare and in the justice systems, in compliance with the constitutional safeguards and international human rights standards.
6. Please specify whether your Excellency's Government is planning to amend its Penal Code, and protocols for the safe termination of pregnancy in accordance with the recommendations of the World Health Organization, and to ensure girls' right to participate in an informed and age-appropriate way in the decisions regarding issues pertaining to their right to health and other sexual and reproductive rights.
7. Please specify whether your Excellency's Government is planning to draft an action plan on women's and girls' sexual and reproductive health rights.
8. Please specify whether your Excellency's Government is planning to provide compensation and rehabilitation to the girl-child and her family

for the trauma and any other health consequences endured, as well as other survivors of sexual violence prevented from having access to legal abortion in similar situations.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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.

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Alice Jill Edwards
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 refer, especially, to articles 2, 3, 6, 7, 9, 17, 19, 23(1) and 14(1) of the International Covenant on Civil and Political Rights (ICCPR), which protects the equality of men and women, the physical and psychological integrity, right to privacy and non-discrimination, right to be free from torture and other cruel, inhuman or degrading treatment or punishment, right to liberty and security of person, freedom of expression, and the protection of the family and the rights of the child; and articles 12 and 2.2. of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which enshrine the right of everyone to the enjoyment of the highest attainable standard of physical and mental health without discrimination, both instruments acceded by Brazil on 24 January 1992. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Brazil ratified on 1 February 1984, imposes obligations in relation to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning, especially in its article 12. The Convention on the Rights of the Child (CRC), which Brazil ratified on 24 September 1990, obliges to put the best interests of the child as a primary consideration in all actions affecting children, their right to non-discrimination, and ensure that health systems and services are able to meet specific sexual and reproductive health needs of adolescents, including family planning and safe abortion services (article 24).

Criminalization of abortion and the failure to provide adequate access to services for the termination of an unwanted pregnancy constitute discrimination on the basis of sex, in contravention of article 2 of the ICCPR. In its general comment no. 36: article 6 of the ICCPR, on the right to life, the Human Rights Committee stressed that although States parties may adopt measures designed to regulate voluntary terminations of pregnancy, such measures must not result in violation of the right to life of a pregnant woman or girl nor jeopardize their lives, subject them to physical or mental pain or suffering, discriminate against them or arbitrarily interfere with their privacy. State parties must provide safe, legal and effective access to abortion including where the pregnancy is the result of rape or incest and should not introduce new barriers and should remove existing barriers that deny effective access by women and girls to safe and legal abortion.

The Committee on Economic, Social and Cultural Rights interpreted article 12 in its general comment no. 14. Article 12 imposes an obligation on States Parties to realize the right of women and girls to the highest attainable standard of health. This implies an obligation to ensure that steps are taken to ensure that access to health services is available to all, especially those in the most vulnerable or marginalized situations, without discrimination. In its general comment no. 3, the Committee clarified that any retrogressive measures would contravene the principles of the Covenant.

In its general comments nos. 14 and 22, the Committee on Economic, Social and Cultural Rights clarified that the right to sexual and reproductive health, as an

integral part of the right to health, entails a set of freedoms and entitlements. Sexual and reproductive freedoms include “the right to control one’s own health and body” and “the right to make free and responsible decisions and choices, free of violence, coercion and discrimination, in matters relating to one’s own body and sexual and reproductive health.” Under the right to health, the rights include unimpeded access to a range of quality sexual and reproductive health facilities, services and goods, including essential drugs, as well as programs, including access to safe abortion care, abortion drugs and quality post-abortion care.

CEDAW general recommendation no. 24 emphasizes the duty of a State party to ensure, on a basis of equality of men and women, access to health-care services, information and education implies an obligation to respect, protect and fulfil women’s rights to health care. CEDAW general recommendation no. 35 affirms that violations of women’s sexual and reproductive health and rights such as abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment (CEDAW/C/GC/35 at para. 18).

In its concluding observations on Brazil (CEDAW/C/BRA/CO/7), the CEDAW Committee recommended the State expedite the review of its legislation criminalizing abortion to remove punitive provisions imposed on women, as previously recommended by the Committee (CEDAW/C/BRA/CO/6, para. 3).

CRC general comment no. 15 explaining the right of the child to the enjoyment of the highest attainable standard of health (art. 24) associates morbidity and mortality with adolescent pregnancy and states that States should work to ensure that girls can make autonomous and informed decisions on their reproductive health. They should not be deprived of any sexual and reproductive health information or services (CRC/C/GC/15).

In its concluding observations on Brazil (CRC/C/BRA/CO/2-4), the Committee on the Rights of the Child expressed concern that the criminalization of abortion, except in cases of rape, threat to the life of the mother, or anencephalic foetus, results in many girls resorting to clandestine and unsafe abortions that put their lives and health at risk. The Committee recommended to decriminalize abortions in all circumstances and review its legislation with a view to ensuring access to safe abortion and post-abortion care services and ensure that the views of the child are heard and respected in abortion decisions.

The Working Group on discrimination against women and girls stated that restrictions on access to abortion, a reproductive health service predominantly needed by women and adolescent girls, are discriminatory. They subject women to unnecessary barriers to accessing essential reproductive health services, as well as degrading treatment. They fuel abortion stigma, which in turn contributes to a prohibitive and punitive environment fraught with intimidation and violence. Legal restrictions on abortion violate pregnant women's rights to life, health (including sexual and reproductive health), privacy, bodily integrity, equality and non-discrimination, and freedom from cruel, inhuman and degrading treatment and gender-based violence. In particular, denying abortion to women who have become pregnant as a result of rape or

incest risks aggravating their mental and physical trauma and suffering, thus subjecting them to other forms of psychological violence (A/HRC/47/38, position paper on Women's autonomy, equality and reproductive health in international human rights: between recognition, backlash and regressive trends <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf>).

The Working Group on discrimination against women and girls stressed that abortion is a health care matter and access to safe and legal abortion is intrinsically linked to women and girl's right to life, health, equality, dignity and privacy. States have the obligation to respect, protect and fulfil women's right to equal access to health-care services and eliminate all forms of discrimination against women in relation to their health and safety. This obligation entails providing women with autonomous, effective and affordable access to health and ensuring that barriers to women's enjoyment of the right to the highest attainable standard of physical and mental health are dismantled, including by exercising due diligence. Denying women access to information and services which only they require and failing to address their specific health and safety, including their reproductive and sexual health needs, is inherently discriminatory and prevents women from exercising control over their own bodies and lives. Furthermore, women may be denied such services through the reduction of availability and accessibility, deterrence from health care professionals and deprivation of women's autonomous decision-making capacity. The Working Group has also observed with concern that throughout their life cycle, women's bodies are instrumentalized and their biological functions and needs are stigmatized. The instrumentalization on women's bodies is often reflected on practices such as the withholding or delay in treatment, curtailment of women's autonomy and denial of respect for privacy and obstructing their access to reproductive and sexual health care. Furthermore, the legal restrictions to regulate women's control over their own bodies has been identified by the Working Group as a severe and unjustified form of State control, this can include regulations governing the provision of information related to sexual and reproductive health and termination of pregnancy. The enforcement of such provisions generates stigma and discrimination and violates women's human rights, by particularly infringing their dignity and bodily integrity and restricting their autonomy to make decisions about their own lives and health. The Working Group has recommended that laws, policies and practices should mandate respect for women's autonomy in their decision-making, especially regarding pregnancy, birthing and postnatal care (A/HRC/32/44).

In its reports, the Working Group on discrimination against women and girls has demonstrated the persistence of a global discriminatory cultural construction of gender, often tied to religion, and the continued reliance of States on cultural justifications for adopting discriminatory laws or for failing to respect international human rights law and standards. Within the United Nations system, the Working Group has observed that States have misused references to culture, religion and family in an effort to dilute their international obligations to fulfil women's rights and achieve gender equality. While the Working Group is committed to the principle of upholding freedom of religion or belief as human rights to be protected, it regrets the increasing challenges to gender equality in the name of religion. It joins other international human rights expert mechanisms in reiterating that freedom of religion or belief should never be used to justify discrimination against women. Women's human rights are fundamental rights

that cannot be subordinated to cultural, religious or political considerations (A/HRC/38/46).

In this context, we would also like to refer to the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Special Rapporteur on the right to health) (A/66/254), which reiterates that the criminalization of sexual and reproductive health services for women generates and perpetuates stigma; restricts their ability to make full use of the products available for their sexual and reproductive health services and information; denies their full participation in society; hinders their access to health services; and it affects women's empowerment (para. 17). Penalizing and restricting induced abortion 'infringe women's dignity and autonomy by severely restricting decision-making by women in respect of their sexual and reproductive health; (para. 21), Furthermore, the criminalization of abortion has a negative impact on the physical and mental health of women and girls and can increase the likelihood that they resort to unsafe and clandestine abortions (para. 35).

As the Special Rapporteur on the right to health noted in a report to the Human Rights Council (A/HRC/32/32), adolescents around the world face discrimination and barriers in accessing the information, services and commodities needed to protect their sexual and reproductive health, resulting in violations of their right to health. Adolescents should be guaranteed access to confidential and non-discriminatory sexual and reproductive health information, services and commodities that respond to their needs, including family planning, modern methods of contraception, counselling, pre-conception care, maternal care, sexually transmitted infections, diagnosis and treatment, and safe abortion. Adolescent sexual and reproductive health services should be welcoming and open to adolescents, without prejudice, and ensure privacy and confidentiality. In addition, in her report to the General Assembly (A/77/197), the special Rapporteur on the right to health indicates her support to "the removal of all laws and policies criminalizing or otherwise punishing abortion, contraception, adolescent sexuality, same-sex conduct and sex work."

In a report to the United Nations General Assembly (A/74/137), the Special Rapporteur on violence against women recommended Member States to repeal laws which criminalize abortion in all circumstances, remove punitive measures for women who undergo abortion, and at the very minimum, legalize abortion in cases of sexual assault, rape, incest, and when the continued pregnancy endangers the mental and physical health of the woman or the life of the woman, and provide access to safe, quality post-abortion care.

We would also like to refer to the thematic report of the Special Rapporteur on torture (A/HRC/31/57) in which it was highlighted that laws denying access to abortion to women victims of rape were a violation of their right not to be subjected to torture or ill-treatment. Denying access to safe abortion and subjecting women and girls to humiliating and judgmental attitudes in such situations of extreme vulnerability would also amount to torture and ill-treatment. As stated in this thematic report, as a consequence of their international obligations to prohibit torture, States have an affirmative obligation to reform restrictive abortion laws that perpetuate torture and ill-treatment by denying women access to safe abortion and care. In this respect, the Special Rapporteur called on States to "(b) Decriminalize abortion and ensure access to

legal and safe abortions, at a minimum in cases of rape, incest and severe or fatal foetal impairment and where the life or physical or mental health of the mother is at risk; (c) Set forth clear guidance on implementing domestic abortion legislation and ensure that it is interpreted broadly; and monitor the practical implementation of legislation to ensure that persons are provided the right to legal services in practice;” (para. 72).

WHO in its abortion care guideline (2022) recommended that States must ensure access to family planning and sexual reproductive health information and services, including affordable contraceptive methods to enable women and adolescents to make autonomous and informed decisions on their reproductive health. In addition to clinical and service delivery recommendations, WHO recommends removing medically unnecessary regulatory barriers to safe abortion, such as criminalisation, mandatory waiting times, the requirement that others (e.g. partners or family members) or institutions give approval, and limits on when in pregnancy an abortion can be performed. These barriers can cause critical delays in accessing treatment and expose women and girls to increased risk of unsafe abortion, stigmatisation and health complications, while increasing disruptions to their education and ability to work. The guidelines recommend that abortion be accessible on demand by the woman, girl or other pregnant person. Until they are replaced by abortion on demand, existing scenarios should be formulated and applied in a manner consistent with international human rights law. This means that the content, interpretation and application of laws and policies based on scenarios must be reviewed to ensure respect for human rights. This requires: i. defining, interpreting and applying existing scenarios in a manner that respects human rights; ii. accessing abortion when carrying a pregnancy to term would cause the woman, girl or other pregnant person substantial pain or suffering, including situations, inter alia, where the pregnancy is the result of rape or incest or the pregnancy is not viable; iii. access to abortion when the life and health of the pregnant woman, girl or other pregnant person is at risk; iv. reflecting the WHO definitions of health and mental health in the health scenarios; and v. the absence of procedural requirements to "prove" or "establish" that the scenarios are met, such as requiring a court order or police report in the case of rape or sexual assault.

We would like to recall that article 19 of the ICCPR guarantees the right to opinion and expression. In the general comment 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of opinion and expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’, subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant.

Furthermore, in its general comment no. 34, paragraph 9, the Human Rights Committee affirmed that “no person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual perceived or supposed opinions”, and that “it is incompatible with paragraph 1 to criminalize the holding of an opinion”.

We would like to refer to the Human Rights Council resolution 45/18 on safety of journalists adopted on 6 October 2020, in which the Council expressed “deep concerns about all attempts to silence journalists and media workers, including by legislation that can be used to criminalize journalism, by the misuse of overbroad or vague laws to repress legitimate expression, including defamation and libel laws, laws on misinformation and disinformation or counter-terrorism and counter extremism legislation, when not in conformity with international human rights standards, and by business entities and individuals using strategic lawsuits against public participation to exercise pressure on journalists and stop them from critical and/or investigative reporting”. This resolution also recognised that the development of national legal frameworks that are consistent with States’ international human rights obligations are an essential condition for a safe and enabling environment for journalists. Attacks on journalism are fundamentally at odds with protection of freedom of expression and access to information and, as such, they should be highlighted independently of any other rationale for restriction. Governments have a responsibility not only to respect journalism but also to ensure that journalists and their sources have protection through strong laws, prosecutions of perpetrators and ample security where necessary. (A/HRC/71/373 para. 35). It has indeed long been recognised that “journalism constitutes a necessary service for any society, as it provides individuals and society as a whole with the necessary information to allow them to develop their own thoughts and to freely draw their own conclusions and opinions” (A/HRC/20/17 para. 3).

In her report about gender justice and the freedom of expression to the General Assembly, the Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression, highlighted the disproportionate risks faced by female journalists, and their subjection to sexual and gender based violence, both online and offline (A/76/258). The Rapporteur outlined that attacks on female journalists violate not only their freedom of expression, but also society’s right to information from diverse media, and represent a gendered attack on media freedom (A/76/258, para. 46). The report also emphasises that the prohibition against sexual and gender-based violence is well established in international law, and the right to be safe from threats and violence applies equally online and offline (Ibid. para. 62). In her recommendations to States on the subject, the Special Rapporteur called for the adoption of specific legislation to prohibit, investigate and prosecute online gender-based violence, and that the legislation should be grounded in international women’s human rights instruments and international standards on freedom of expression, and that the prohibitions should be drafted restrictively and take into account specific digital traits, such as amplification by perpetrators (A/76/258, para. 107).

We would like to remind you that the legitimate role of human rights defenders is recognised by international law and referred 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 and 2 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 12, paragraphs 2 and 3, 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;

We would like to draw the attention of your Excellency's Government to General Assembly resolution 68/181, as well as to Human Rights Council resolution 31/32, in which States expressed particular concern about the systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and integrate a gender perspective in their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women human rights defenders. Such policies and programmes should be developed with the participation of women human rights defenders themselves (OP5, 19 and 20).

The Working Group on discrimination against women and girls also noted in its thematic report on women deprived of their liberty (A/HRC/41/33) that deprivation of liberty is deeply linked to gender and that women experiencing intersectional forms of discrimination are more vulnerable to discriminatory norms and practices. The Working Group also underlined that women human rights defenders, perceived as challenging traditional notions of family and gender roles in society, are increasingly at risk of facing criminalisation and detention as a result of their legitimate public activism, including online activism, and are likely to be subject to criminal prosecution and imprisonment. It recommended that States support women's participation in public and political life and eliminate any laws or policy measures aimed at criminalizing women's public role.

As emphasised by the Working Group on discrimination against women and girls in one of its reports (A/HRC/23/50), stigmatisation, harassment and direct attacks are used to silence and discredit women leaders, community workers, human rights defenders and women politicians. Women defenders are often subjected to gender-based violence, such as verbal abuse based on their sex; they may experience intimidation, attacks and may also be killed. Violence against women defenders is sometimes tolerated or perpetrated by state actors.

In a joint statement, the Working Group on discrimination against women and girls stressed that women human rights defenders face unique challenges, driven by profound discrimination against women and stereotypes about their supposedly appropriate role in society. Today's growing fundamentalisms of all kinds and populism,

as well as authoritarian governments and the unchecked drive for profit, further fuel discrimination against women, exacerbating the obstacles faced by women human rights defenders. In addition to the risks of threats, attacks and violence faced by all human rights defenders, women human rights defenders are exposed to specific risks such as misogynist attacks, gender-based violence, lack of protection and access to justice, and lack of resources for women's organisations and support for women defenders' participation in political and public life. (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20938&LangID=E>)