

NATIONS UNIES
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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
BLZ 2/2013

24 July 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolution 16/4, 15/21, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning alleged death threats, intimidation and a homophobic attack against Mr. **Caleb Orozco**.

Mr. Orozco is the Executive Director of the United Belize Advocacy Movement (UNIBAM) and works particularly on advocating for non-discrimination against Lesbian, Gay, Bisexual and Transgender (LGBT) people. Mr. Orozco was the subject of a previous communication sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders on 29 February 2012 regarding homophobic attacks against him. We regret to note that to date no reply has been received.

According to the information received:

In 2010, UNIBAM and the West Indies University presented a constitutional writ to challenge Section 53 of the Criminal Code. This section criminalises "unnatural crimes" which are defined as "carnal intercourse against the order of nature with any person or animal". UNIBAM was not accepted as a claimant in the case which meant that Mr. Orozco was de facto singled out as the sole claimant. It is reported that this situation has rendered Mr Orozco vulnerable to homophobic attacks, because of his increased visibility as a high profile human right defender belonging to the LGBT community.

On 9 May 2013, between 3:00 and 4:00 a.m., it is alleged that a person or persons jumped over the fence at Mr. Orozco's house and vandalised his car. According to the information received, Mr. Orozco filed a complaint at the police station. To date, no result of the investigations is known. It is also reported that one person threatened Mr. Orozco by telling him this case could easily be dismissed if he was dead. Mr. Orozco had allegedly been receiving threats on his Facebook page as well. It is reported that there were indications that there was a "price on Mr Orozco's life" on 10 May 2013 and it is understood that his family has also been subject to acts of intimidation.

During the Court hearing, homophobic messages were being shown on national television. Subject to the well-founded fear for his safety, Mr. Orozco was granted protection measures from the State whilst the trial was being heard at the Supreme Court from 7 to 10 May 2013. Since May, the growing climate of homophobic threats and attacks against LGBT people and activists are known to have taken place, but these remain unreported due to a fear of stigmatisation or police inaction.

According to information received, the threats are believed to have intensified in July since the announcement of the Revised Gender Policy announced by the Government. Massive mobilization of marches against the policy during which UNIBAM has been singled out have led to a backlash against the LGBT community. It is believed that the churches have been taking an active lead in these marches, setting up a number of buses from local communities.

The Inter-American Commission on Human Rights issued precautionary measures on behalf of Mr. Orozco on 29 May 2013. However, Mr. Orozco claims not to have received any measures of protection since then.

Deep concern is expressed for the physical and psychological integrity of Caleb Orozco, as well as for his family and members of the Belizean LGBT community and for the allegations received indicating that his situation is linked to his human rights work. Further concern is expressed at the alleged climate of impunity regarding homophobic attacks, at the persistence of legislation criminalizing homosexual acts and the lack of due protection towards LGBT persons and those working for the rights of the LGBT people.

While we do not wish to prejudge the accuracy of these allegations, we wish to remind your Excellency's Government that Belize, as a State party to the International Covenant on Civil and Political Rights (ICCPR), has a duty to guarantee equal protection before the law and to prohibit discrimination on any ground. In *Toonen vs. Australia*, decided in 1994, the Human Rights Committee stated that "the reference to 'sex' in articles 2, paragraph 1, and 26 of the ICCPR is to be taken as including sexual orientation." Since then, in numerous Concluding Observations, the Committee has urged State parties to guarantee equal rights to all individuals, as established in the Covenant, regardless of their sexual orientation. In this connection, it has been noted that the Human Rights Committee in March 2013 expressed its concern at the lack of any constitutional or statutory provision expressly prohibiting discrimination on the grounds of sexual orientation or gender identity. It also expressed its concern at acts of violence

committed against LGBT persons. This is despite the fact that during the first round of Belize's 2009 Universal Periodic Review, it was recommended that precisely such legislation should be put in place.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We would like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to

study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

With regard to article 7 of the Declaration on human rights defenders, the Special Rapporteur on the situation of human rights defenders has stated that the right to develop and discuss new human rights ideas is enshrined in the Declaration on Human Rights Defenders as an important provision for the on-going development and articulation of human rights. Article 7 provides for the right to discuss and advocate for human rights ideas and principles that, in some contexts, are perceived as new or unpopular because they address human rights issues that might challenge tradition and culture. In this connection, the Special Rapporteur has encouraged States to do the necessary to guarantee the principle of pluralism and recognize the right of defenders to promote and advocate for new human rights ideas or ideas that are perceived as new. She has further encouraged States to take additional measures to ensure the protection of defenders who are at greater risk of facing certain forms of violence and discrimination because they are perceived as challenging accepted sociocultural norms, traditions, perceptions and stereotypes, including about sexual orientation and gender identity.

We would also like to recall resolution 17/19 of the Human Rights Council, where the Council expressed grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide the full details of any protective measures put in place to ensure the physical and psychological security and integrity of the aforementioned human rights defender and his family in light of the alleged threats.

4. What measures have been taken to ensure non-discrimination on the grounds of sexual orientation?

5. Please explain what measures have been taken to ensure that all human rights defenders in Belize, in particular those working on LGBT rights, can carry out their peaceful and legitimate activities without fear of stigmatization, violence or other restrictions.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders