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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)
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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 resolutions 16/4, 24/5, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **alleged harassment and death threats against human rights defenders working to end discrimination and advocating for the rights of gay, lesbian, bisexual and transgender (LGBT) people**.

██████████ and ██████████ are members of the Liga Brasileira de Lésbicas (LBL), Heliana Hemetério of the Associação Brasileira de Lésbicas, Gays, Travestis e Transexuais – (ABGLT), **Kelly Vasconcellos** of Artemis, ██████████ is part of Dom da Terra e APPAD, **Syr-Daria Mesquita** is a member of the Centro Paranaense de Cidadania (CEPAD), and **Thon Chris Paiva** is of the Aliança Jovem. **Toni Reiss** is the education secretary of the ABGLT and was also a founding member of Grupo Dignidade, an NGO founded in 1992 and the first LGBT rights organisation since the advent of democracy. **Juliana Souza** is on the board of this NGO, as well as being involved in trade union issues and having been a candidate in the 2012 municipal elections. All are working on the issue of LGBTI rights in Brazil.

According to the information received:

On 30 September 2012, a “diversity parade” took place in the city of Curitiba, in which the above-named persons took part. Since then, it is alleged that they have been harassed, from reverse-charges phone calls which included derogatory comments about the activists' sexuality to even death threats. Simultaneously they began to receive emails to both professional and personal accounts containing

defamatory messages and death threats. It is reported that the threats were principally targeted at gay women. Furthermore, it has been indicated that there have been threats towards the children of some of the activists. The information received suggests that these threats would have come from a group rather than an individual.

Toni Reiss reported the threats to the relevant authorities via a Boletim de Ocorrência (BO) no 2013/908832. The threats were also reported in a local newspaper. On 23 October 2012, officials from the National Protection Programme for Human Rights Defenders (NPPHRD) came to Curitiba to analyse the situation. Since then, the NPPHRD has been providing protection to [REDACTED], [REDACTED], Juliana Souza, [REDACTED], [REDACTED] and Toni Reis. They reportedly met with the activists once in June 2013, and twice in July 2013. It is reported that officials indicated that they would set up a Reference Centre with multidisciplinary support, where LGBT people could denounce discrimination, threats or harassment. These complaints would then be sent to federal authorities for investigation and possible protection. On 24 October 2010, Juliana Souza also filed a report with police, BO no 2012/959731.

However, in January 2013 the rate of threatening emails reportedly increased and the content became more violent in tone. It is alleged that links to images of homicide were sent to the activists as an example of what would become of the recipients. Juliana Souza allegedly received an email in which corrective rape for gay women was mentioned. Defamatory statements linking her sexuality to pedophilia have also allegedly been made. A separate email reportedly accused Toni Reiss of sexually abusing his son, and threatened him with death. The activists submitted reports of these threats to the Cybercrimes authority, BO no 2013/59271 and 2013/72192. In March 2013, they reportedly filed a lawsuit to obtain a breach of confidentiality judicial warrant with the intention of acquiring information with regard to the source of the threats. This was denied in June 2013. However, sources indicate that another jurisdiction granted the order.

Beginning in May 2013, the perpetrators allegedly began to create fake Facebook profiles of the activists, and in some cases of their family members, and then added their friends. They would then chat to the friends, masquerading as the activists, and make sexist, racist or homophobic comments whilst insulting the friends. The perpetrators have allegedly begun issuing death threats using these fake accounts. The comments also accused some of the activists of pedophilia and attributed violence against animals to them. A report BO no. 2013/522832 was submitted to police with regard to this activity.

We have further information that a social worker and a school psychologist visited Toni Reiss' twelve year old son at school on 9 July 2013, after the Fundação de Ação Social (FAS) received an anonymous complaint that the boy was being sexually abused at home. There were also screen shots of a child posing as Toni Reiss's son describing the supposed abuse. His son has since written an official

statement describing these allegations as false. False profiles have also been created in the name of Toni Reiss's son from which the perpetrator(s) issues threats and homophobic comments to friends of Mr. Reiss.

Grave concern is expressed at the serious nature of these threats against the LGBT rights activists and the fact that these threats could possibly be related to their human rights work as well as, in some instances, to their sexual orientation or gender identity. In particular, grave concern is expressed at the accusations made against Toni Reiss given the serious impact they could have on the psychological integrity of his young son.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would 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 further like to refer to 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 also recall that "the right to freedom of association obliges States to take positive measures to establish and maintain an enabling environment. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to any threats, acts of intimidation or violence ..." (A/HRC/20/27, paragraph 63).

Regarding allegations received indicating that the situation of the afore-mentioned individuals is connected to their work in defence of human rights, 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, 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 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.
- 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.

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.

Regarding the allegations received indicating that the perpetrators of the violations reported are non-State actors, we would like to call to the attention of your Excellency's Government the Human Rights Council resolution /13/13 of 15 April 2010, which recognizes "the immediate need to put an end to and take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms for all" as well as to adopt the necessary measures to prevent such acts. In this resolution the Human Rights Council also "urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity".

Furthermore, the Special Rapporteur on the situation of human rights defenders, in paragraphs 28 and 29 of her report to the General Assembly A/65/223 of 4 August 2010, stated that "the responsibility of non-State actors to respect the rights of human rights defenders does not relieve the State of its obligations under human rights law to respect, protect and fulfill human rights, including those of human rights defenders. (...)" The Special Rapporteur argued that the State's obligation to protect "first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State's responsibility. Secondly, States should provide defenders victims of human rights violations with an effective remedy. To that end, all violations of the rights of defenders should be investigated promptly and impartially and perpetrators prosecuted. Fighting impunity for violations committed against defenders is crucial in order to enable defenders to work in a safe and conducive environment."

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. Please provide the details, and where available the results, of any investigation or judicial or other inquiries which may have been carried out in relation to this case.
3. Please provide the full details of any protective measures at the national and local level put in place to ensure the physical and psychological security and integrity of the aforementioned human rights defenders and their families.
4. Please kindly provide information on the measures taken to ensure that human rights defenders who come to prominence in the course of their work against

discrimination and in the defence of LGBT rights can carry out their work without facing discrimination or acts of intimidation and harassment of any sort.

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 persons 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.

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freedom of opinion and expression

Maina Kiai
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