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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 torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE: AL G/SO 214 (53-24) G/SO 214 (89-15)
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Excellency,

We have the honour of addressing you in our capacity as the Special Rapporteur on violence against women, its causes and consequences and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and Human Rights Council resolutions 16/7 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the case of **Ms. X, a 14 year-old girl who was allegedly gang raped by four members of the security forces.**

According to information received:

On 19 April 2011, four men including one wearing a military uniform allegedly attacked a house located in T. village, Narayanpatna Panchayat, Narayanpatna block in Koraput district of Orissa. Three children were sleeping in the house at that time: a 14 year-old girl and her two younger cousins, a girl and a 12 year-old boy.

After having tied the boy's hands and mouth with clothes and blindfolded him, the four men started questioning the two girls in Hindi. The younger one ran away from the home whereas the 14 year-old one failed to escape. After allegedly plundering her of gold earrings and three nose rings, they reportedly forced her to lie down, and then they gagged and blindfolded her. It is alleged that they subsequently asked her for money. As she said she did not have any money, they allegedly beat her with a stick and slapped her repeatedly. Then, one of the four men allegedly started raping her. All of them allegedly raped her while they took turns to hold the 12-year old boy. It reportedly lasted for an hour. Before leaving the house, the men allegedly threatened to kill her if she filed a complaint to the police or told anyone

what happened. It is reported that the victim could not walk for approximately three days due to excruciating pain.

Two weeks later, a complaint was allegedly sent by post to the Superintendent of Police. The two cases were reportedly registered at Narayapatna Police Station (First Information Report no. 13/11 and 14/11). The inspector in charge of the case allegedly denied the allegation about police involvement saying there was no police operation in the village on the day of the incident. He rather suspected unidentified young people wearing uniforms who have allegedly committed a number of thefts in the area in the month preceding this incident. However, it is alleged that the tribes are often assaulted in the area by the security personnel.

While we do not wish to prejudge the accuracy of these allegations I would like to bring to your Excellency's Government attention Article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women. In that sense, I would also like to recall Article 4 (c & d) of the Declaration, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women, whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfil this obligation; in paragraph 9, it makes clear that "under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".

We would, moreover like to bring to your Excellency's Government attention article 34 of the Convention on the Rights of the Child which provides that States Parties

undertake to protect the child from all forms of sexual exploitation and sexual abuse. In particular, Article 34 (a) calls upon States Parties to take all appropriate national, bilateral and multilateral measures to prevent the inducement or coercion of a child to engage in any unlawful sexual activity.

Furthermore, with regard to any investigations, medical examination or other queries which have been carried out in relation to this case, taking into account the age of the alleged girl victim and the impact such a crime may have on her development, I wish to recall the State parties' duty to "take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse (...). Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child" according to article 39 of the Convention on the Rights of the Child. In particular, child victims should be treated in a caring and sensitive manner throughout the justice process, taking into account their personal situation and immediate needs, age, gender, disability and level of maturity and fully respecting their physical mental and moral integrity. (Guidelines on justice for child victims and witness of crime, adopted by Economic and Social Council resolution 2005/20, para. 10).

It is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to my 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?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate if any measures have been put in place to guarantee the safety and integrity of Ms. X. and her family.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

Rashida Manjoo
Special Rapporteur on violence against women, its causes and
consequences

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment