

Mandate of the Special Rapporteur on violence against women, its causes and consequences

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolution 16/7.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the **non-judicial remedy program implemented by the mining company Barrick Gold Corporation for women victims of rape by security guards of the Porgera Joint Venture mine in Papua New Guinea**. This remedy program was developed by Barrick Gold Corporation in response to specific incidents involving sexual violence perpetrated by mine employees in the Enga province of Papua New Guinea between 1 January 1990 and 31 December 2010.

As you are aware, I referred to these incidents in my recent mission report on Papua New Guinea (A/HRC/23/49/Add.2), including the allegations of beatings and gang rape committed by the private security personnel employed by the mine. My report states that while the company initially failed to detect the abuse or take the allegations seriously, it had reportedly then conducted investigations in collaboration with the police; identified additional cases; and designed a set of gender-sensitive reparations to the victims. These reparations would include individualized services and support for victims, as well as community-wide services, infrastructure and/or facilities to develop the capacity of the local community to address issue of violence against women. In addition, a number of important preventative and supervisory initiatives would be implemented by the company.

I have recently received information indicating that Barrick Gold Corporation has indeed started providing remedy packages, through a project-level non-judicial grievance mechanism, to women who were raped by the mine's security guards. Compensation in the remedy packages would reportedly include: psychosocial/trauma counseling; health care; education and training; cooking utensils, clothing; micro-credit; and assistance with school fees.

It is also reported, however, that in order to receive these remedy packages women must enter into an agreement in which they agree not to pursue or participate in any legal action against the Porgera Joint Venture mine or Barrick Gold Corporation, whether in Papua New Guinea or abroad. It is also reported that Barrick Gold Corporation will be able to rely on such agreement as a bar to any legal proceedings which may be brought by the victims. It is therefore of concern that the remedies that are being proposed to victims could be an attempt at avoiding accountability.

In the recommendations made in my mission report I called on Your Excellency's government to demonstrate commitment and political will to regulate the operation of companies in remote provinces, including the fishing, logging and mining industries, by establishing adequate monitoring and inspection mechanisms, and investigating any allegations of violence against women committed by company employees. I also stressed that these efforts should reflect the international human rights standards as per the Guiding Principles on Business and Human Rights (A/HRC/17/31, annex).

I take this opportunity to recall article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, 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, I also recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), 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".

Finally, I would like to bring to the attention of your Excellency's Government my 2010 thematic report to the Human Rights Council on "Reparations to women who have been subjected to violence" (A/HRC/14/22), in which I recall that the obligation to provide adequate reparations involves ensuring the rights of women to access both criminal and civil remedies and the establishment of effective protection, support and rehabilitation services for survivors of violence. Furthermore, reparations for women cannot be just about returning them to the situation in which they were found before the individual instance of violence, but instead should strive to have a transformative potential. This implies that reparations should aspire, to the extent possible, to subvert instead of reinforce pre-existing patterns of crosscutting structural subordination, gender

hierarchies, systemic marginalization and structural inequalities that may be at the root cause of the violence that women experience.

With the aim to continue a constructive and fruitful dialogue with regard to the issue of violence against women and girls in Papua New Guinea, I take this opportunity to enquire about any steps that your Excellency's Government has taken to implement the recommendations contained in my mission report, including in relation to the abovementioned case. Information on the follow-up to my country visits is very valuable to me as I endeavor to examine how States have exercised due diligence in their efforts toward the elimination of violence against women.

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

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