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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.

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolution 16/23 and 16/7.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the alleged abduction and torture of Ms. **Melissa Roxas** on 19 May 2009 in La Paz, Tarlac and the subsequent failure of the relevant national authorities to investigate, identify and try the perpetrators of these violations.

According to the information received:

Ms. Melissa Roxas, claims she was allegedly abducted, detained, and tortured by forces associated with the Armed Forces of the Philippines (AFP) over a six day period in May 2009. According to the allegation, remedy was sought through the Court of Appeals in the Philippines, but while this Court included in its findings that Ms. Roxas was subject to detention and torture, there has been no effort to hold the perpetrators accountable.

It is reported that Ms. Roxas, a United States citizen of Filipino descent, was working on a medical mission in the community of Tarlac in the Central Luzon area of the Philippines and temporarily resting in a private residence when armed men arrived and forcibly abducted her and two other medical team members. According to the report, Ms. Roxas was repeatedly beaten, blindfolded, and dragged across the floor when she attempted to resist this detention, and was then driven to an unknown location.

At this facility, Ms. Roxas was allegedly subjected to various forms of violent treatment over a six day period from 20 to 25 May 2009. Ms. Roxas reportedly was handcuffed for almost the entirety of this period, forced to sleep on the floor, denied

medical treatment, and subjected to long periods without food or water. The report alleges several instances of forceful interrogation which included repeated beatings, asphyxiation using plastic bags and choking, instances of drugging, and death threats. The torture was claimed to have begun once Ms. Roxas refused to answer questions regarding connections with the Communist Party of the Philippines (CPP) and its armed group, the New People's Army (NPA), and intensified upon refusal to sign documents regarding these connections. The allegation also claims that Ms. Roxas was denied access to an attorney during this period of detainment, despite repeated requests.

It is reported that physical and mental examinations of Ms. Roxas revealed multiple abrasions on her knees and wrists, tenderness in the epigastric area and stomach, soreness in the face, as well as psychological disorders such as Acute Stress Disorder, Post-Traumatic Stress Disorder, and Major Depressive Disorder.

Ms. Roxas claims that there is strong evidence that she was abducted by elements of the AFP, specifically the 7th Infantry (or Kayuga) Division, and detained in Fort Magsaysay military installation as part of a counterinsurgency campaign directed against groups such as the CPP. The allegation claims Ms. Roxas pursued legal remedy through the Filipino Courts and was granted a Writ of Amparo as well as a Writ of Habeas Data by the Court of Appeals on 26 August 2009 in recognition that torture did occur, but no further action to ascertain the identity of the perpetrators nor efforts to bring them to justice has been taken by either the Court of Appeals or the Supreme Court in the Philippines.

The case also went to the Commission on Human Rights of the Philippines for investigation, but it is alleged that these investigations were significantly obstructed by the military. On 14 February 2011, it was concluded by the Commission that atrocities occurred and that there should be further investigation to identify the perpetrators. So far, no further steps have allegedly been taken in this direction.

Without in any way implying any conclusions as to the facts of the case, we would like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Ms. Roxas. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth *inter alia* in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to draw the attention of your Excellency's Government to article 12 of the Convention Against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention Against Torture, which requires state parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency's Government's attention to paragraph 7b of the Human Rights Council Resolution 16/23, which urges States "(t)o take persistent determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively, and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate, or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles of the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updates set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture."

Finally, we would like to draw the attention of your Excellency's Government to article 14 of the Convention Against Torture, which provides that victims of torture should have the right to redress and adequate compensation. In this regard, we would also like to remind you that paragraph 7e of Human Rights Council Resolution 16/23, which urges States "(t)o ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken."

Furthermore, we would like to draw the attention of your Excellency's Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that "Intimidation and coercion, as described in article 1 of the Convention Against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture;"

We appeal to your Excellency's Government to take all necessary measures to guarantee to the forementioned person the right to be free from any gender-based violence, discrimination and abuse. Towards that end, we would like to draw your Excellency's attention to the Declaration on the Elimination of Violence against Women, which was adopted by the United Nations General Assembly and states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights

include, inter alia, (a) the right to life; (b) the right to equality; (c) the right to liberty and security of person; and (d) the right to equal protection under the law (Art.3).

We recall 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.

We would also like to bring to your Excellency's Government's attention 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.

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 observation on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. 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.
3. Please indicate measures taken by your Excellency's Government to conduct a full investigation to ascertain the identities of those alleged to be responsible for the claimed violations detailed above and to bring them to justice in accordance with article 7 of the Convention against torture ratified by your Excellency's Government.
4. What measures are being taken to investigate the existence of unknown detention facilities alleged to exist at the Fort Magsaysay military installation and what steps are being taken to ensure no further undocumented detentions will occur in the future?

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 Ms. Roxas 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.

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

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