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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 214 (107-9) G/SO 214 (53-24) G/SO 214 (89-15) PNG 3/2011

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on the situation of human rights defenders; pursuant to the Human Rights Council resolutions 16/7, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding two cases of brutal violence on the basis of sorcery/witchcraft accusations, allegedly perpetrated against **Mr. Mondo Gere** and **Mrs. Rose Nil Gere**, and against **Ms. X** and her four daughters **A, B, C** and **D**. We have also received information concerning threats and acts of intimidation against **Ms. Mary Kini** and **Ms. Monica Paulus**, the two human rights defenders who documented the abovementioned cases.

According to information received:

Mondo Gere (age 75) and Rose Nil Gere (age 70) are from the Paglau clan of Kerowagi District in the Simbu Province. They have been married for 50 years and have no children. Mr. Gere worked as a public service driver for the Simbu Provincial Government for 40 years before he retired to his village in Gena. Since they returned to their village, Mr. and Mrs. Gere have worked cultivating their own land, growing food and coffee, and herding pigs and other animals for sale and consumption.

It is reported that Mr. and Mrs. Gere have been accused of sorcery and witchcraft by several community members, under the leadership of Mr. E. Mr. and Mrs. Gere are specifically accused of causing the illness and death of Mr. F, E's father.

From Friday 22 to Sunday 24 July, 2011, Mr. and Ms. Gere were allegedly kept captive and tortured by F and other clan members. The victims were allegedly tied by their legs and hands, beaten with sticks, stones, axes, bush-knives and hammers; burnt with hot irons; cut with hot blades; and burnt with boiling water with chilli. Ms. Gere reportedly suffered several cuts and injuries in her head, had one of her ears cut off and one of her fingers removed with fliers. At some point during these events, she was reportedly also forced to eat excrement. In the case of Mr. Gere, one of his fingers was allegedly also cut off with fliers and his upper and lower front teeth pulled out.

It is reported that Mr. and Ms. Gere's house was burnt, and the products of their food gardens and coffee plots taken away by the perpetrators. Currently, Mr. and Mrs. Gere are undergoing medical treatment. Mr. Gere is reportedly in Kerowagi Health Centre while Mrs. Gere has been transferred to Kundiawa General Hospital. They have allegedly received threats from the perpetrators ordering not to return to their homeland. It is reported that no relative is willing to visit them or take care of them in the hospital, for fear of the perpetrators' reprisal. Mr. and Ms. Gere have no place to go after their discharge, as their house was destroyed and their land occupied.

It is further reported that human rights defenders Ms. Mary Kini and Ms. Monica Paulus have been threatened by the perpetrators for visiting the victims and taking their testimonies. The perpetrators have allegedly warned them to stop visiting or collecting any reports.

Subsequent to the above-mentioned incidents, it is also reported that Mr. F has accused another woman, Ms. X, of practising sorcery and causing the death of his father.

Ms. X, age 40, and her four daughters A, B, C and D live in the W village, in the Kerowagi District of Simbu Province. A and B are Ms.X's biological daughters while E and D are her nieces, who she raised. She is a single parent who has brought up the children by herself.

On 1 September 2011, at approximately 11:00 p.m, the alleged perpetrators, led by F came to Ms. X's house. Sleeping in the house that night were the sisters, A, B, C, D and their two small brothers, both 10 years of age. Their mother, Ms. X, had allegedly gone to the church area for a prayer meeting.

F allegedly stormed into the house, and first attacked the eldest daughter, A. He put a knife to her neck, cut off her clothes and pushed her out onto the verandah where the other men were waiting. A screamed for help but no one came to her rescue, she was allegedly then dragged back into the house, beaten and raped by approximately 15 men. Among the perpetrators that could be identified by the victim was F, as well as other six men. At approximately 1:00 a.m (on 2

September, 2011), A's uncle came to her rescue and the perpetrators left. A was allegedly then taken by her uncle to the prayer house.

It is reported that later that night F went to the church area looking for Ms. X. At gunpoint he took Ms. X and her daughters back to their house where he raped them. It is alleged that when attempting to run away, B was stabbed on her upper thigh by F.

After raping the victims, F allegedly poured petrol at the house and burned it down. The victims' entire property and belongings were reportedly burnt, including their kitchen house with 3 pigs inside.

Reportedly, C and D are now seeking refuge at their biological mother's residence at K, while Ms. X, A and B are at their distant cousin's village, in K. The victims are reportedly deeply traumatized and displaced as the community will not accept them back and their house and possessions have been destroyed.

Further reports indicate that the victims and the human rights defenders supporting them face continuing risk as perpetrators, including F, have not been apprehended. The community has allegedly attempted to pressure the victims to drop the cases and not take them through the formal judicial system. The police have reportedly not taken any action, as no formal investigation has taken place, and the perpetrators have not been prosecuted.

Concern is expressed that these cases do not constitute isolated incidents and that sorcery and witchcraft related violence against women is on the rise in Papua New Guinea, in particular in the highlands region. It is alleged that there are incidents of increasingly violent acts, including the murder and physical mutilation of those accused of having practiced sorcery. Victims of sorcery-related attacks and killings are mainly women, in particular widows, or other vulnerable individuals who do not have any kin to protect them and who often become forcibly displaced from their communities. It is reported that allegations of sorcery are also one of the factors for inciting tribal fights in the highlands region. In May 2010, the former Special Rapporteur on torture conducted an official visit to Papua New Guinea and noted his concern regarding the lack of capacity to prevent and investigate crimes relating to domestic violence, tribal fighting and victims of accusations of sorcery in his country mission report (A/HRC/15/52/Add.5 at para. 36). Further concern is expressed regarding the physical and psychological integrity of human rights defenders Ms. Mary Kini and Ms. Monica Paulus, due to the allegations that they have been subjects of threats and acts of intimidations as a result of their work with the victims of sorcery. These allegations, if confirmed, indicate an increasing climate of hostility and harassment against human rights defenders in Papua New Guinea.

Without in any way implying any conclusion as to the facts of these cases, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of Mr. Mondo Gere, Mrs. Rose Nil Gere, Ms. X, A, B,

C, D, Ms. Mary Kini and Ms. Monica Paulus. 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, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In that connection, we would like to bring to your Excellency's attention to article 2 (f) of the Convention on the Elimination of All forms of Discrimination against Women, ratified by Papua New Guinea on 12 January 1995, which provides that State parties shall "take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women". By means of ratifying the Convention, States parties undertake to do so in their condemnation of discrimination of women in all its forms. States parties to the Convention are also under an obligation to take all appropriate measures to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes" (article 5 (a)).

Allow us to refer to article 4 of the United Nations Declaration on the Elimination of Violence against Women which underlines the responsibility of States to condemn violence against women and which calls on States not to invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women.

We would also like 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, 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 also wish to recall article 4 (g) of the United Nations Declaration on the Elimination of Violence against Women which notes the responsibility of States to work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

We would also like to draw the attention of your Excellency’s Government to paragraph 2 of General Comment No. 20 of the Human Rights Committee, which provides that, “The aim of the provisions of article 7 [on the prohibition of torture and other cruel, inhuman and degrading treatment or punishment] of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.” (Adopted at the 44th session of the Human Rights Committee, 1992)

Furthermore, 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.”

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

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Mondo Gere, Mrs. Rose Nil Gere, Ms. X, A, B, C, D, Ms. Mary Kini and Ms. Monica Paulus, 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.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Mondo Gere, Mrs. Rose Nil Gere, Ms. X, A, B, C, D, Ms. Mary Kini and Ms. Monica Paulus, in compliance with the above international instruments.

It is our responsibility under the mandate 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 cases accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
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 these cases.
4. 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 whether any protective measures have been put in place to ensure the safety and integrity of the victims.

6. Please indicate whether any measures have been undertaken by your Excellency's Government with a view to eradicate sorcery-related attacks and killings in the country.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Margaret Sekaggya
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