

Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers

REFERENCE: AL
PHL 1/2015:

8 January 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 25/18 and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged disbarment procedure currently pending against human rights lawyer Mr. Harry Roque**.

Mr. **Harry Roque** is the Chairperson of the Centre for International Law (CentreLaw), a non-governmental organisation that promotes the enforcement of international human rights and humanitarian law in the Philippine legal system. As Chairperson, he is leading a campaign questioning the legality of the Enhanced Defence Cooperation Agreement between the Philippines and the United States. He is also a member of the Bertha Justice Initiative, an international network of lawyers which seeks to protect and advance human rights.

Presently, Mr. Roque is acting as the legal representative of the family of a transgender woman who was allegedly killed by a Marine from the United States of America based in the Philippines on 11 October 2014.

According to the information received:

On 22 October 2014, Mr. Roque and his clients, the family of a transgender woman killed on 11 October 2014, visited the Mutual Defence Board-Security Engagement Board inside Camp Anguinaldo, the military headquarters of the Armed Forces of the Philippines, where the U.S. Marine suspected of having killed the woman was detained. Mr. Roque's clients allegedly climbed over a fence into a restricted area of the compound where they thought the suspect was being held. In the process of entering the restricted area, one of Mr. Roque's clients, a German national, shoved the military police who was trying to prevent him from further advancing. Following the incident, the Armed Forces of the Philippines filed a complaint against Mr. Roque's client before the Bureau of Immigration and the German embassy.

On 4 November 2014, the Armed Forces of the Philippines reportedly filed a complaint calling for the disbarment of Mr. Roque for violation of the Code of Professional Responsibility at the Integrated Bar of the Philippines in Ortigas. According to information received, Mr. Roque is accused of having encouraged his clients to enter the restricted area of Camp Anguinaldo, a claim Mr. Roque denies. On the day that the complaint was filed, the Public Affairs Office Chief of the Armed Forces of the Philippines publically stated that Mr. Roque's behaviour amounts to unlawful conduct. The petition for his disbarment is currently pending.

Concern is expressed about the disbarment procedure currently pending against Mr. Roque which appears to result from his legitimate exercise of his professional functions as a lawyer.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate what measures have been taken to ensure that lawyers, including human rights lawyers, in the Philippines are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Michel Forst

- Special Rapporteur on the situation of human rights defenders

Gabriela Knaut

Special Rapporteur on the independence of judges and lawyers

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Furthermore, we would like to bring to the attention of your Excellency's Government article 9, paragraph 3, point (c) of the UN Declaration on Human Rights Defenders, which stipulates the right to provide legal assistance in defending human rights and fundamental freedoms.

In addition, we would like to refer your Excellency's Government to the following provisions of the UN Basic Principles on the Role of Lawyers:

- Principle 16, point a) which provides that Governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference;
- Principle 16, point c) which provides that Governments shall ensure that lawyers shall not suffer, or be threatened with prosecution or administrative sanctions for any action taken in accordance with recognised professional duties;
- Principle 18 which provides that lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions; and
- Principle 27, which provides that charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures. Lawyers shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice.