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UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on violence against women, its causes and consequences

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (33-27) G/SO 214 (89-15)
PHL 3/2012

29 June 2012

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 16/4, 16/5, 17/5, and 16/7.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **alleged killing of Mr. Francisco Canayong and acts of intimidation against Ms. Nenita Lacasa and Ms. Carolyn Borja.**

Mr. Canayong was the president of the Barangay Integrated Upland Farmers Association of Salcedo (BIUFAS) and a member of the Carapdapan Movement for Development Association (CAMADA). CAMADA monitors and campaigns against illegal mining operations in the municipality of Salcedo, Province of Eastern Samar.

Ms. Nenita Lacasa is a programme officer with CAMADA and Ms. Carolyn Borja is president of the same association.

According to the information received:

On 17 March 2012, at approximately 9:00 a.m., Mr. Canayong, Ms. Borja and one other individual overheard a conversation between the Barangay Chairman of Carapdapan, a mining contractor, and two employees of Terrestrial Mining Corporation (TMC). It is alleged that during the course of this conversation, the TMC field operations trustee expressed his intention to enter the homes of those

who continued to interfere with the mining operation and kill them. He is reported to have mentioned several human rights defenders by name, including those who overheard the conversation, and their organisations. The individuals who overheard the conversation filed an affidavit in relation to these threats.

According to reports, on 1 May 2012, at around 2:40 p.m., Mr. Canayong was on his way home when he was attacked and killed. His death was allegedly caused by three stab wounds received to the back and chest.

Reportedly, on 6 May 2012, a green pick-up truck was parked in front of the house of Ms. Lacasa and Ms. Borja in Barangay Carapdapan, and the TMC field operations trustee alighted. It is reported that this individual fired a shot at the upper storey of the building before leaving several minutes later. It is communicated that the same vehicle had been spotted outside of the house on multiple occasions at the end of April 2012.

It is further reported that on 23 May 2012, at approximately 11:00 p.m., two shots were fired outside the same house when both Ms. Lacasa and Ms. Borja were inside. It is reported that Ms. Borja stepped outside and saw men on two blue and red motorcycles. The men reportedly fired two more shots at the house before fleeing the scene.

Grave concern is expressed for the physical and psychological security of Ms. Lacasa and Ms. Borja. Concern is further expressed that the killing of Mr. Canayong and the acts of intimidation against Ms. Lacasa and Ms. Borja may be directly related to their legitimate human rights work, particularly their efforts to combat illegal mining operations in Salcedo. Should these allegations be verified, serious concern is expressed that they form part of an increasingly violent and intimidatory atmosphere for human rights defenders in the Philippines.

While we do not wish to prejudge the accuracy of these allegations, 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".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information

about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- article 12 paragraphs 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.

With respect to the information on the killing of Mr. Canayong, as well as on the alleged attacks against Ms. Lacasa and Ms. Borja, we would like to refer to Article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Philippines on 23 October 1986, which provides that every individual has the right to life and security of the person, that this right shall be protected by law and that no person shall be arbitrarily deprived of his or her life. In addition, in its General Comment No. 31, the Human Rights Committee observed that the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. There may be circumstances in which a failure to ensure Covenant rights would give rise to violations by States Parties of those rights, as a result of States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. Furthermore, Principle 4 of the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65, states that effective protection through judicial or other means shall be provided to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

We would like to further draw the attention of your Excellency's Government to the duty to investigate, prosecute and punish violations of the right to life, in line with the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and

Summary Executions. In particular, Principle 9 stipulates that there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, while Principle 18 provides that “Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice”.

We also appeal to your Excellency’s Government to take all necessary measures to guarantee to the above-mentioned 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 would further 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.

We would also like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

In view of the urgency of the matter, we urge you to **provide swift and effective protection to Ms. Lacasa and Ms. Borja**, and would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard their rights in compliance with the above international instruments.

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 observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?

2. Have complaints been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to the killing of Mr. Canayong, as well as to the attacks against Ms. Lacasa and Ms. Borja. 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 in both cases of the killing of Mr. Canayong, and the attacks against Ms. Lacasa and Ms. Borja. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please provide the full details of any protective measures which may have been put in place to ensure the physical and psychological security and integrity of Mr. Canayong in the wake of the alleged threats against his life prior to his killing. If no measures were taken, please explain why not.
6. Please provide the full details of any protective measures put in place to ensure the life, physical and psychological security and integrity of Ms. Lacasa and Ms. Borja and their families.
7. Please clarify whether compensation has been made available to Mr. Canayong's family.

In light of the serious and ongoing nature of the allegations submitted to us, and our concerns in relation to the deteriorating situation of Ms. Lacasa and Ms. Borja, and more generally, of defenders campaigning against extractive activities in the Philippines, we would like to inform your Excellency's Government that we may issue a press statement on the situation, which will be shared with you prior to its release.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons 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.

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Margaret Sekagya
Special Rapporteur on the situation of human rights defenders

Christof Heyns
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Rashida Manjoo
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