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The Permanent Mission of the Islamic Republic of Pakistan accredited to the United Nations and other International Organizations in Geneva presents its compliments to the Special Procedure Branch of the Office of the High Commissioner for Human Rights (OHCHR) and with reference to its letter no. UA PAK4/2019 dated 29 May 2019, has the honour to enclose the response of the Government of Pakistan.

The Permanent Mission of the Islamic Republic of Pakistan avails itself of this opportunity to renew to the Special Procedure Branch of the Office of the High Commissioner for Human Rights (OHCHR) the assurances of its highest consideration.



Special Procedures Branch
Office of the High Commissioner for Human Rights (OHCHR)
Geneva

[REDACTED]



**Pakistan's Response to the Joint Communication of the Special
Procedure Mandate Holders in relation to Ms. Gulalai Ismail and
Ms. Sanna Ejaz**

**1. Information on the allegations mentioned in the Joint
Communication**

Kill List

No such thing as a "State Kill List" exists and we urge the Special Procedure Mandate Holders to verify/cross check such unfounded allegations before sharing them in a written communication. Such allegations undermine the positive role of the SPMHs and create trust deficit between them and the States. SPMHs are an important pillar of the Human Rights Council and their work should be based on facts and credible information. Pakistan is a progressive democratic State and such draconian measures such as "State Kill List" have never been part of any Government Policy. Furthermore, our internationally respected independent judiciary, open and free media, and vibrant civil society keep a close check on the functioning of State institutions. Necessary system of institutional checks and balances are also in place to stop any abuse of power and bring the perpetrators to justice.

Ms. Gulalai Ismail

- i. Ms. Gulalai Ismail was involved in inciting people to violence and disinformation against the State. She provoked people to attack a military check post to forcibly secure the release a terrorists' facilitator in the tribal district of North Waziristan on 26th May 2019. This illegal and violent assault resulted in the loss of precious life as well as wounding of 5 soldiers.
- ii. Her actions cannot be justified under freedom of expression and assembly, as allowed under International Human Rights Law. Even if the protest led by her was supposedly in support of a rape and murdered of child, how could it be directed towards army especially an army installation holding hard core terrorists. The rape and murder cases in Pakistan like anywhere else in the world are dealt by Police and if she had any concerns on the handling of the case, those should have been directed towards the police and judicial authorities.
- iii. Regarding the allegation on online smear campaign against Ms. Ismail, the SPMHs must take into account the way online platforms function where anyone can post anything. The SPHM's are also well aware that Pakistan is an open society and internet and social media platforms are not censored/ blocked. At the same time, we protect the rights of our citizens online in a similar manner as offline. Necessary legislative measures have been adopted such as "The Prevention of Electronic Crimes Act 2016" to protect against cyber attacks and

institutional mechanisms are available such as FIA cyber crime department. Ms. Ismail must lodge her complaint(s) officially of online harassment or threats with the relevant departments like all other citizens for necessary action by State institutions. Like any other citizen of Pakistan, necessary actions would be undertaken by the relevant departments for the protection of rights of Ms. Ismail.

- iv. Ms. Ismail did not lodge an official complaint with police or judiciary regarding her alleged harassment or death threats received by people associated with her. She did not share specific concerns/ threats including social media details of accounts or specific phone numbers with the relevant departments to carry out investigations into the allegations of death threats.

Ms. Sanna Ejaz

- i. Ms. Sanna Ejaz is free and like any other Pakistani, all her fundamental rights are protected by the Constitution of Pakistan. The State institutions are not involved in any alleged death threats to Ms. Ejaz.
- ii. Unlike, Ms. Gulalai, since Ms. Ejaz has officially lodged an FIR regarding the alleged death threats, the relevant departments are looking into the allegations of death threats to Ms. Ejaz.

2. Practical steps taken to ensure the physical and psychological integrity of Ms. Gulalai Ismail and Ms. Sanna Ejaz

Ms. Gulalai Ismail is in police custody on a remand granted by civil magistrate after she was presented in front of that magistrate. Her case is being pursued in accordance with due process of law and her family is in contact with her. All fundamental freedoms and constitutional guarantees of due process are available to Ms. Ismail. Moreover, necessary checks and balances exist in our legal system to ensure due process including different tiers/ hierarchy in the judicial system. Considering that the independence of our judiciary is a well established fact, Ms. Ismail has the opportunity to defend her case and prove herself innocent, however, according to reports, she has not until now hired a case or made an effort to defend her case.

3. Whether any investigation has been done in relation to the death threats made against Ms. Ismail and Ms. Ejaz and alleged existence of a State kill list

Points mentioned above answer most part of this query. As regard threats, the police needs to be made aware of specific threats i.e. IDs of phone calls etc. The police and other relevant departments are ready to take the process of investigation forward, should Ms. Ismail and Ms. Ejaz provide specific

information. Their cooperation with police has been lacking which points out to possible hype and media attention that is intended from such claims.

4. Basis for travel ban of Ms. Ismail and its compatibility with our international obligations

There is no travel ban on Ms. Ismail. However, she is in police custody on a remand and that obviously bars her free movement till the expiry of the remand.

5. Legal basis for the charges against Ms. Ismail and their compatibility with our international obligations

- i. Ms. Ismail concocted lies and put a preposterous blame of the rape and death of a child on the military who do not even deal with the case. Such malicious and maligning campaign against a national security institution and that without any proof, is reflective of mala fide intent on part of Ms. Ismail. Such actions are not allowed under international law or any domestic legislation around the world.
- ii. Article 19 (3) of ICCPR regarding freedom of expression clearly stipulates: "The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or of public health or morals." On the contrary, Ms. Ismail incited people against national security institutions based on disinformation and well thought-out strategy, attacked the national coherence and integrity of the State, provoked people for disrupting public order resulting in their attack on an army checkpoint, spread hatred in a particular community through hate speech against others. None of her actions qualify under the allowed ambit of freedom of expression as per international human rights law. To term her actions as "defending human rights of the Pashtun community" is far from the reality and obfuscation of facts.
- iii. Article 20 of the ICCPR clearly outlines the contours of freedom of assembly: "1. Any propaganda for war shall be prohibited by law; 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." On the contrary, Ms. Ismail incited people for hostility against State institutions on the bases of disinformation and maligning campaign devoid of any logic or proof, resulting in violence and death of civilians and injury of army personnel. Her actions are clearly in contradiction to what is allowed under International Human Rights Law.

- iv. Article 21 of the ICCPR clearly outlines the contours of freedom of assembly: “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” Inciting people to violence, as done by Ms. Ismail, resulting in an attack on an army checkpoint clearly do not qualify under freedom of assembly.

6. Measures taken to ensure that human rights defenders including those advocating for the rights of the Pushtun community are able to carry out their work in a peaceful and legitimate work in a safe and enabling environment.

- i. The fundamental freedoms of our citizens are protected under the Chapter 1 of Pakistan’s constitution titled “Fundamental Rights”. Article 16 protects the freedom of association while Article 19 of our Constitution freedom of expression of all our citizens in line with the International Human Rights Law. These constitutional guarantees have been translated in domestic legal framework and necessary institutional arrangements have been made to enforce them and investigate/ remedy any case of abuse of basic human rights. The Supreme Court of Pakistan has been very active in protecting against infringement of any fundamental freedom of our citizens. The media including social media in Pakistan is free and open like other democratic and progressive societies providing necessary space to the human rights defenders to express their views. The Government has promptly taken action on any case of human rights violation highlighted by human rights defenders and activists on social media.
- ii. The Government has been constructively engaged with civil society including human rights defenders and journalists on a wide range of issues especially in relation to our international and domestic human rights obligations. They have been involved in the process of preparation of our reports for the UPR and treaty bodies. It shows that the Government considers human rights defenders as our partners for the promotion and protection of all human rights and realization of human dignity.