

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
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; the
Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on
extrajudicial, summary or arbitrary executions.**

Téléfax: (41-22) 917 9006
Télégrammes: UNATIONS, GENEVE
Téléx: 41 29 62
Téléphone: (41-22) 917 9359
Internet www.ohchr.org
E-mail: urgent-action@ohchr.org

Address:
Palais des Nations
CH-1211 GENEVE 10

REFERENCE
AL G/SO 214 (107-9) G/SO 214 (33-27) G/SO 214 (89-15)
AFG 1/2012

18 July 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolution 16/7, 16/5, and 17/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **killing in public of Ms. Najiba**, a woman who was allegedly accused of adultery, as well as **the killing of Ms. Hanifa Safi**, the regional representative of the Ministry of Women Affairs in the Laghman province.

According to information received:

In early July 2012, Ms. Najiba, a 22 year old woman allegedly accused of adultery, was publicly killed amidst a crowd. A video showing her execution was later made public and widely distributed among social media.

While it was initially reported that members of Taliban groups may have committed Ms. Najiba's killing, it has also been reported that the woman's family may have perpetrated these acts.

It is reported that Ms. Najiba had been missing for some time and upon her return she was accused of adultery. Ms. Najiba was allegedly married to a Taliban member named Juma Khan, and was accused of committing adultery with a Taliban commander.

Afghan authorities have reportedly condemned the killing and security forces have allegedly launched an investigation.

It was also reported that on 13 June 2012, Ms. Hanifa Safi, a regional representative of the Afghan Ministry of Women Affairs in Laghman province, was killed while driving through the provincial capital, Mehtar Lam, when a bomb attached to her car allegedly exploded. The bomb reportedly also killed her husband and injured 11 persons, including Ms. Safi's son and daughter.

Ms. Safi is reportedly the second provincial head of women's affairs to be assassinated since these posts were created.

While we do not wish to prejudge the accuracy of these allegations, we would 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 also 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 (ratified by Afghanistan on 5 March 2003), 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. Paragraph 9 of General Comment No. 19 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 make reference to article 7 (c) of the International Convention on the Elimination of all forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) to participate in non-governmental organizations and associations concerned with the public and political life of the country.

We also wish to refer to the 2012 thematic report of the Special Rapporteur on violence against women to the Human Rights Council on Gender related killings of women, which highlights, inter alia, how women human rights defenders are commonly perceived as challenging accepted sociocultural norms, traditions, perceptions and stereotypes about femininity and the role and status of women in society, and therefore face greater risks of experiencing violence. Women are also at a greater risk of experiencing violence committed in the name of “honour”. The report stresses that those who deliberately participate in, facilitate, encourage or threaten women and girls in the name of “honour” should be punished. The report recommends: 1) ensuring effective investigations, prosecution and sanctions; 2) guaranteeing de jure and de facto access to adequate and effective judicial remedies; 3) treating women victims and their relatives with respect and dignity; 4) ensuring comprehensive reparations to victims and their relatives; 5) identifying certain groups of women as being at particular risk when adopting preventative measures; and 6) modifying the social and cultural patterns and eliminating prejudices, customary practices and other practices based on the idea of the inferiority or superiority of either of the sexes, and on stereotyped roles for men and women.

With respect to the information on the killing of Ms. Najiba, as well as of Ms. Safi and her husband, we would like to refer to article 6 of the International Covenant on Civil and Political Rights (ICCPR), that Afghanistan acceded to on 24 January 1983, 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.

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”.

Moreover, 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 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.

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:

1. Are the facts alleged in the above summary of these cases accurate?
2. Has a complaint been lodged 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 carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
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 provide information on whether compensation has been provided to the families of the victims.

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.

Given the seriousness of the allegations received, and our raising concerns about the killing of women, including women human rights defenders, we inform you that we reserve the right to issue a statement on the situations mentioned above, which will be shared in advance with you before dissemination to the media.

While awaiting your response, we urge your Excellency's Government to take all necessary measures to guarantee that thorough, prompt and impartial investigations are conducted on the reported killings of Ms. Najiba, as well as of Ms. Safi and her husband. 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.

Rashida Manjoo
Special Rapporteur on violence against women, its causes and
consequences

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions