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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; the Independent Expert on minority issues; and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE: UA G/SO 214 (56-23) G/SO 214 (3-3-16) Minorities (2005-4) G/SO 214 (89-15)
PAK 4/2012

27 March 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Special Rapporteur on the independence of judges and lawyers; Independent Expert on minority issues; and Special Rapporteur on violence against women, its causes and consequences pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 14/11, 17/2, 16/6, and 16/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the abduction of Ms. [REDACTED] to forcibly convert her to Islam.

According to the information received:

Ms. [REDACTED], a seventeen-year-old Hindu girl, was abducted from her home in Mirpur Mathelo in the early hours of 24 February 2012, by [REDACTED] who was accompanied by other armed men, including Hassam Kalwarh. Allegedly, she was held in custody in the residence of Mian Abdul Haq alias Mian Mittho, a member of the National Assembly.

She was then taken to a famous Madressa at Dargah Aalia Qadrin Bharchoondi Sharif where she was forced to sign a marriage certificate (Nikkah Nama) to be married with [REDACTED] and converted to Islam. Reportedly, Madressa is famous for converting Hindu girls in the province and has targeted to convert 2000 Hindus every year to Islam.

On the morning of 24 February 2012, [REDACTED], Ms. [REDACTED]'s uncle registered a First Information Report (FIR) against [REDACTED]. The police found Ms. [REDACTED] and presented her before the civil court in Ghotki on 25 February 2012. Ms. [REDACTED] pleaded before a civil judge to return home to her parents, she

testified that she had been kidnapped and forced to change her religion against her will. However, Ms. [REDACTED] alleged that the judge ignored her plea and followed the instructions of Assembly member Mian Abdul Haq.

Allegedly, Mian Abdul Haq slapped Ms. [REDACTED] repeatedly in front of the judge and threatened her in order to stop her giving a statement against her abductors. He also told her that she had become Muslim and could not go back to her family or otherwise her family would have to bear dire consequences. The judge refused to record Ms. [REDACTED]'s confession and Ms. [REDACTED] was taken into police custody for two days at Sukkur police station where she was allegedly threatened that if she did not change her statement, she and her family would be killed.

On 27 February 2012, Ms. [REDACTED] appeared in court again, but in Mathelo. During this second hearing that started at 8:15 a.m., it was alleged that Ms. [REDACTED] was under pressure and changed her statement. The civil judge announced that she had embraced Islam and that she would be in the custody of [REDACTED] as the home of the husband is the proper home of a newly married girl. Ms. [REDACTED]'s lawyers and family members came to know about the hearing in Mathelo court only in the morning and reached the court premises around 8:45 a.m. They were not allowed inside the court, despite other members of the public being allowed in.

After the court's announcement, Ms. [REDACTED] was reportedly whisked away by Mian Abdul Haq's men and since then Ms. [REDACTED]'s family is not aware of the whereabouts of their daughter.

We would like to note that [REDACTED]'s case is one of many which are similar and illustrates a pattern of abduction and forced religious conversion in Pakistan as addressed in a previous communication dated 9 September 2011 (see A/HRC/19/44 case no. PAK 7/2011).

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to investigate the case of Ms. [REDACTED].

We would also like to recall the right of Ms. [REDACTED] to freedom of religion or belief, in accordance with articles 18 of the Universal Declaration of Human Rights (UDHR) and of the International Covenant on Civil and Political Rights (ICCPR) that your Excellency's government has ratified on 23 June 2010.

Article 18 (2) of the ICCPR specifically bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Art. 1 (2) of the 1981 Declaration of the General Assembly provides that "[n]o one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice." Furthermore, the General Assembly, in its resolution 65/211, urges States to step up their efforts to

protect and promote freedom of thought, conscience and religion or belief, and to this end “(c) To end violations of the human rights of women and to devote particular attention to abolishing practices and legislation that discriminate against women, including in the exercise of their right to freedom of thought, conscience and religion or belief”.

Article 16 of the UDHR, states that women and men are entitled to equal rights as to marriage, during marriage and at its dissolution. It further provides that marriage shall be entered into only with the free and full consent of the intending spouses in article 16 (2) and in the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. Furthermore, we would like to draw the attention of your Excellency’s Government to article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women, on the right of women and men to freely choose a spouse, to enter into marriage only with their free and full consent and to have the same rights and responsibilities during the marriage and at its dissolution.

We would like to bring to your Excellency’s Government’s attention 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 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.

Furthermore, we draw the attention of your Excellency’s Government to international standards relevant to the protection and promotion of the rights of minorities. Article 27 of ICCPR states that: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.” The 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires under Article 1.1 that “States shall protect the

existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.” Article 4.1 of the Declaration establishes that: “States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.”

In relation to the allegations that the judge followed the instructions of a National Assembly member, we wish to stress that “[t]he judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason” in accordance with principle 2 of the Basic Principles on the Independence of the Judiciary (endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985).

Concerning the judge’s failure to take measures while Mr. Abdul Haq was using violence against the girl before him/her, the refusal to record the girl’s statement, and the allegation that the girl’s lawyer and family were not allowed to attend the second hearing, we wish to draw to the attention of your Excellency’s Government the Bangalore Principles of Judicial Conduct (adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, November 25-26, 2002). In accordance with principles 1.6 and 2.2 of the aforementioned instrument, a judge shall exhibit, promote and maintain high standards of judicial conduct in order to reinforce public confidence in the judiciary, which is fundamental to the maintenance of judicial independence, as well as the confidence of the legal profession and litigants in the impartiality of the judge and of the judiciary. Furthermore, the judge shall maintain order in all court proceedings and be dignified and courteous in relation to litigants, and others with whom the judge deals in an official capacity pursuant to principle 6.6.

Most importantly, we wish to remind your Excellency’s Government of the international obligations Pakistan has endorsed upon ratification of the Convention on the Rights of the Child on 12 November 1990. Under article 19:

“1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

“2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”

In its General Comment No. 13 adopted on 18 April 2011, the Committee on the Rights of the Child stated that these duties require State parties to inter alia “(f) Ensure

the protection of child victims and witnesses and effective access to redress and reparation” and to “(i) Enforce law and judicial procedures in a child-friendly way, including remedies available to children when rights are violated” (CRC/C/GC/13, para. 41).

In light of the above, we urge your Excellency’s Government to take all necessary measures to find out the whereabouts of Ms. [REDACTED] and inform the family and her lawyer of the results of these investigations. We further urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of Ms. [REDACTED] are respected and that accountability of any person guilty of the alleged violations is ensured. We also request that your Government adopts effective measures to prevent the recurrence of these acts.

As 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 cooperation and observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged with regard to the incident mentioned?
3. Please provide the details and where available, the results, of any judicial investigation, or any criminal charges and other inquiries carried out in relation to this case and emerging trend of kidnapping, forced marriage and conversion.
4. Please provide information on the whereabouts of Ms. [REDACTED].
5. Please provide information on the judicial proceedings initiated by Ms. [REDACTED] and explain to what extent these comply with the State’s international duties as set forth in the Convention of the Rights of the Child, including the obligation to enforce law and judicial procedures in a child-friendly and gender sensitive way.
6. Please explain how the conduct of the judge has complied with the Basic Principles on the Independence of the Judiciary and the Bangalore Principles on Judicial Conduct.
7. Please indicate which measures your Excellency’s Government has adopted or intends to implement to respect and promote the freedom of religion or belief, and to eliminate all forms of violence and coercion perpetrated against women belonging to religious minorities and to ensure their personal safety and liberty.

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.

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