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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 torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: AL G/SO 214 (53-24) G/SO 214 (89-15)
PAK 6/2012

2 May 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on violence against women, its causes and consequences pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/23 and 16/7.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the rape of an 18-year-old girl by her stepfather, a police officer, for more than five years.**

According to the information received:

It is alleged that Ms. [REDACTED] (18), a resident of [REDACTED] Province was continuously raped for five years by her stepfather, [REDACTED], a police officer of the area. Her mother married M. [REDACTED] after the death of her father.

On 1 April 2012, it is alleged that Ms. [REDACTED] reported the rape at the city police station of [REDACTED]. The victim also stated that she was forced to have three abortions which were carried out by different midwives. She also reported that she had been threatened by the perpetrator not to talk about the matter with anyone otherwise she would face dire consequences. It is alleged that when the victim's mother came to know that her daughter has been raped by her stepfather and was pregnant she arranged her marriage to a boy.

When Ms. [REDACTED] reported the rape to the police station, the Station Head Officer and other police officials allegedly warned her not to file the case against their colleague but told her that if she had the same relationship with them then her case would be filed. After some agitation, police officers were reportedly compelled to file a First Information Report on 6 April 2012, however the police

are reluctant to take action against the perpetrator. Although he has been taken into custody, he is enjoying the facilities of the police in the lock up but has not yet been formerly arrested. Instead, police are forcing the victim and her in-laws to reach a settlement with the rapist and withdraw the complaint against him.

It is further alleged that Ms. ■■■ also mentioned in the police report that her stepfather has kidnapped her mother when she came to know that her daughter had been raped by her second husband. It is finally reported that her mother has been disappeared for the last 10 months and her whereabouts remain unknown. .

While we do not wish to prejudge the accuracy of these allegations, we wish to recall article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against 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.

In addition, we would like to bring to your Excellency's Government's attention article 4 (g) of the United Nations Declaration on the Elimination of Violence against Women which notes the responsibility of states to work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

In this context, we 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 your Excellency's Government on 12 March 1996), 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 fulfill this obligation; in paragraph 9, it 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.

Without in any way implying any conclusion as to the facts of the case we should like to appeal to your Excellency’s Government to seek clarification of the circumstances regarding the case of Ms. [REDACTED]. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We would like to draw your Excellency’s Government’s attention to paragraph 7 (b) of Resolution 8/8 of the Human Rights Council, which stated that “Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture. Rape and other serious acts of sexual violence by officials in contexts of detention or control may not only amount to torture or ill-treatment, but also constitute a particular egregious form of it, due to the stigmatization they carry” (A/HRC/7/3, para. 69).

We 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 Excellency’s Government adopts effective measures to prevent the recurrence of these acts.

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 summary of the case accurate?
2. Has a complaint been lodged? Please provide the details, and where available the results, of any investigation, judicial or other inquiry which may have been carried out in relation to this case. 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 against the alleged perpetrator.

5. Please provide information regarding the whereabouts of the victim's mother. Was she reported as a missing person? Please provide the details, of any investigation or other inquiry which may have been carried out in relation to the allegations regarding her disappearance.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment

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