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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 the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)
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29 March 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 rights to freedom of peaceful assembly and of association; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and Human Rights Council resolutions 16/4, 15/21, 16/23, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the alleged acts of intimidation and threats against Mr. **Muhammad Ali Shah** by security forces. Mr. Ali Shah is the Chair of the Pakistani Fisherfolk Forum (PFF) and the General Secretary of the World Forum of Fisher Peoples (WFFP). PFF is a non-governmental organisation which advocates for the economic, social and political rights of fisherpeople and fishing communities in Pakistan. WFFP is an international alliance of 36 national organisations which aims to protect, defend and strengthen the rights of fishing communities at a global level.

Mr. Ali Shah was the subject of a previous communication sent to your Excellency's Government on 7 July 2005, by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. We thank your Excellency's Government for its response dated 18 July 2005.

According to the information received:

On 9 February 2012, at around midnight, about 25 members of the Pakistani Rangers cordoned off the area around the home of Mr. Ali Shah in the town of Bin Qasim. It is reported that Mr. Ali Shah was not home at the time. It is alleged

that the Rangers questioned neighbours of Mr. Ali Shah in a threatening manner, but then departed when more neighbours gathered at the scene.

Allegedly, earlier that day, Mr. Ali Shah had received a phone call from a Rangers' Lieutenant Colonel warning him to desist from his human rights activities and threatening him with kidnapping and death.

According to the information received, on the morning of 9 February, as a gesture of solidarity, Mr. Ali Shah had participated in a peaceful protest against unfair and inhumane working conditions organised by the workers of the garments factory M/S MASCO in Karachi. It is alleged that private security guards attempted to disperse the crowd violently, resulting in the hospitalisation of several individuals. It is further alleged that some of the protestors were arrested, and later released, by police and that while they were arrested Mr. Ali Shah urged the police to respect the protestors' rights and release them.

It is further reported these events took place in a worrying context of attacks, arbitrary arrests and threats against leaders of the Pakistan Fisherfolk Forum during the past year, in an apparent response to their efforts to resist forcible land acquisition and the clearing of mangroves in coastal villages in and around Karachi. Two PFF leaders were reportedly murdered in May 2011 and others were reportedly abducted in July 2011.

Serious concern is expressed for the physical and psychological security of Mr. Muhammad Ali Shah. Concern is further expressed that the acts of intimidation and threats against Mr. Muhammad Ali Shah may be directly related to his legitimate human rights work. Furthermore, concern is expressed about the alleged excessive use of force against, and arrest and detention of, peaceful protestors.

With respect to the allegations according to which Mr. Muhammad Ali Shah was threatened by a Rangers' Lieutenant Colonel with kidnapping and death, we would like to draw the attention of your Excellency's Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States 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."

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 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.

- 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, paras 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.

Given our concern that the situation of Mr. Ali Shah and other peaceful protestors may be directly related to the exercise of their right to freedom of opinion and expression, 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, which provides that "[e]veryone 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."

Similarly, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the International Covenant on Civil and Political Rights, which provides that "[t]he 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 interest of national security of public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”.

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “[c]alls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Muhammad Ali Shah and other peaceful protestors 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.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Muhammad Ali Shah and other peaceful protestors 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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Muhammad Ali Shah and/or other peaceful protestors?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries 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 in relation to the acts of intimidation and threats against Mr. Muhammad Ali Shah, as well as the alleged excessive use of force against peaceful protestors. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please provide full details of any protective measures put in place to ensure the physical and psychological security and integrity of Mr. Muhammad Ali Shah.

6. Please indicate the legal basis of the arrest and detention of the aforementioned peaceful protestors, and how these measures are compatible with international human rights norms and standards as contained, inter alia, in the International Covenant on Civil and Political Rights and the Declaration on Human Rights Defenders.

7. Please indicate what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

8. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully as well as the right to freedom of opinion and expression are respected and that the physical and psychological integrity of those exercising these rights is guaranteed.

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.

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

Maina Kiai
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