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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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

REFERENCE: AL G/SO 214 (56-23) Minorities (2005-4) G/SO 214 (89-15)
PAK 7/2011

9 September 2011

Excellency,

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

We would like to draw the attention of your Excellency's Government to information we have received regarding Ms. X from Rahi Yar Khan, Southern Punjab.

According to the information received:

Ms. X, a 24-year-old nursing student at the Shiekh Zaid Medical College in Rahi Yar Khan, was kidnapped while at school. The alleged culprits involved in the abduction were identified and their names were included in the legal files submitted to the Court. One of the alleged kidnappers – reported to be Mr. Zeehan Iliyas, a Muslim bank clerk – allegedly forced Ms. X to convert from Christianity to Islam and latter forced her to marry him. Ms. X has reportedly been threatened, beaten and forced to sign a declaration stating that she has freely converted to Islam.

Immediately after the kidnapping, Ms. X's mother – Ms. Y – went to the local police station to report the event and file a First Information Report. The police officers, however, refused to intervene on the justification that nothing could be done to change the course of the events.

Ms. X's family of origin then requested the intervention of the provincial minister for human rights and minority affairs in the Province of Punjab. However, only after strong protests by the local Christian population, Ms. Y was eventually able to file a First Information Report (no. 150/2011) against the perpetrators. Subsequently, the family allegedly started to be threatened by the police and the

alleged kidnappers to convince them to drop the case. Ms. X's family was forced to leave Rahim Yar Khan to protect themselves from the constant threats they received.

During the investigations conducted by the police, Ms. X was not formally questioned nor was she able to communicate with her family of origin or the outside world. It was also reported that Mr. Iliyas and his family administered drugs to Ms. X and kept her isolated and under the control of Mr. Iliyas and his family.

Attempts to arrange a private meeting between Ms. X and her family of origin to check on her physical and mental condition were not successful. Ms. X's family of origin asked for a hearing of the Court of First Instance in Rahim Yar Khan, however at the date of the scheduled hearing, on 4 July 2011, Ms. X and the new family did not appear in front of the judge.

Ms. X's family of origin then decided to appeal to the High Court in Multan. On 20 July 2011, Ms. X, her new family and her family of origin appeared in front of the High Court. Ms. X was asked to choose with which family she wanted to live henceforth and she chose her new family. After the hearing, Ms. X and her family of origin had a brief private meeting where Ms. X reportedly indicated that it was too late for her to go back to her old family and life.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification of the circumstances regarding Ms. X.

We would like to bring to the attention of your Excellency's Government 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. In this context, we 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 fulfil 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.”

We would also like to recall that the right to marry only with one’s free and full consent is recognized in the Universal Declaration of Human Rights (UDHR) (article 16(2)) and in a number of subsequent international human rights treaties such as 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. In this sense, we would like to draw your Excellency’s Government’s attention to the concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/PAK/CO/3, 2007, paragraph 44) in which the Committee expressed concern that under the Dissolution of Muslim Marriage Act of 1939, women do not enjoy equal rights with men during the dissolution of marriage. It also notes with concern the persistence of forced and early marriage.

Furthermore, we would like to bring to the attention of your Excellency’s Government 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. In this context, we recall the concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/PAK/CO/3, 2007, paragraphs 28) in which the Committee expressed strong concerns about pervasive patriarchal attitudes and deep-rooted traditional and cultural stereotypes regarding the roles and responsibilities of women and men in the family, in the workplace and in society, which constitute serious obstacles to women’s enjoyment of their human rights and impede the full implementation of the Convention. The Committee is also concerned that prevailing trends of fundamentalism, intimidation and violence incited by non-State actors, including through illegal media, are seriously undermining women’s enjoyment of their human rights in the name of religion.

We would also like to recall the right of Ms. X to freedom of religion or belief, in accordance with articles 18 of the UDHR and of the International Covenant on Civil and Political Rights (ICCPR). The Human Rights Committee, in its general comment no. 22, states that “Article 18.2 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.” 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.”

Furthermore, we wish to 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 the ICCPR establishes 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.” In addition, the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities require 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 2 states that “Persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.” In addition, 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.”

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 this case 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 the case accurate?
2. Has a complaint been lodged with regard to the incidents mentioned above?
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.
4. Please indicate which measures your Excellency’s Government has adopted or intends to implement to eliminate all forms of violence and coercion perpetrated against women belonging to religious minorities and to ensure their personal safety and liberty.

We would appreciate a response within 60 days. 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.

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

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

IZSÁK Rita
Independent Expert on minority issues