

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; and the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE: AL
PAK 12/2015:

2 December 2015

Excellency,

We have the honour to address you in our capacities 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 the situation of human rights defenders; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 25/2, 24/5, 25/18, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the killing of the journalist and human rights defender Mr. **Zaman Mehsud**.

Mr. Mehsud worked as a journalist for the Pakistani Urdu newspaper *Daily Umet* and SANA news agency. He was also member of the non-governmental organization Human Rights Commission of Pakistan, and served as president and secretary general of the South Waziristan chapter of Tribal Union of Journalists.

According to the information received:

On 3 November 2015, unknown gunmen fatally shot Mr. Mehsud while he was riding his motorbike in the district of Tank, Khyber Pakhtunkhwa. Mr. Mehsud's assailants were also on motorbike and escaped after shooting him multiple times. Mr. Mehsud was taken to the District Headquarters Hospital in Dera Ismail Khan where he succumbed to his injuries.

It is reported that hours after the attack, a Taliban commander claimed responsibility for the attack in a statement to a news agency, where he allegedly stated that Mr. Mehsud was killed "because he was writing against us" and also threatened that more attacks on media could follow.

It is reported that since 2001, more than 50 journalists and media workers have lost their lives in Pakistan. It is further reported that 30 of these media workers were deliberately targeted and murdered for their legitimate journalistic practice. It is alleged that the killers were convicted in only two of these cases. Thus far in 2015, it is reported that five journalists, including Mr. Mehsud, have been killed.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern that the killing of Mr. Mehsud illustrates the violent and dangerous conditions facing journalists, media workers and human rights defenders in Pakistan when exercising their legitimate rights to freedom of opinion and expression and of association. Further concern is expressed that attacks against media workers are rarely investigated and perpetrators are seldom brought to justice.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comments you may have on the above-mentioned allegations.
2. Please provide detailed information on any investigation or inquiry into the death of Mr. Mehsud.
3. In the event that alleged perpetrator(s) have been identified, please provide full details of any prosecutions which have been undertaken. Please indicate if penal, disciplinary or administrative sanctions were imposed on these perpetrator(s).
4. Please provide detailed information on the journalists killed in 2015 in Pakistan, indicating full details of any investigations and prosecutions which have been undertaken, indicating if possible sanctions have been imposed on the perpetrators.
5. Please indicate what measures have been taken to ensure the protection of journalists and human rights defenders, among other measures that enable them to carry out their legitimate work in a safe environment without fear of violence or threats of any kind.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the

investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to articles 3 and 6 (1) of the Universal Declaration of Human Rights and article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Pakistan on 17 April 2008, which guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life. We also would like to refer your Excellency's Government to the rights to freedom of opinion and expression, and freedom of association, as set forth respectively in articles 19 and 22 of the ICCPR.

The UN Human Rights Committee urges that States parties should protect journalists against attacks aimed at silencing those exercising their right to freedom of expression. The Committee has recognized that journalists are frequently subjected to threats, intimidation and attacks and has stated "[a]ll such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress." (General Comment No. 34, CCPR/C/GC/34, para. 23)

Additionally, the Human Rights Committee has observed that there is a positive obligation on States Parties to ensure protection of rights of individuals, as provided under the ICCPR, against violations by its agents and by private persons or entities. States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by private persons or entities could give rise to a breach of the Covenant (General Comment No. 31, CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). We would also like to refer to Human Rights Council resolution 13/13 which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

In addition, we would like to refer your Excellency's Government to Principle 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65 according to which it is incumbent upon States to provide "effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats". "There must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions" (Principle 9). This principle was reiterated by the Human Rights Council in Resolution 26/12 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4). The Council added that this includes the obligation "to identify and bring to justice those responsible ... to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and prevent the recurrence of such executions."

We would also like to take this opportunity to refer to your Excellency's Government to paragraphs 88–91 of the report of the former Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the Human Rights Council (A/HRC/14/23). The Special Rapporteur has stated that the right to receive information from various media “is a cornerstone of democracy and supports the construction of more democratic societies peopled by active citizens who hold informed opinions.” He has expressed his deep concern that providers of information, including journalists, have become targets for threats, assaults and even assassinations. The former Special Rapporteur has specifically called upon Pakistan, as one of the States in which large numbers of journalists' deaths have occurred, to “adopt the measures necessary to guarantee the protection of journalists.”

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 Recognised Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration, which state that everyone has the right to promote and to strive for the protection and realisation 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. Article 12, paragraphs 2 and 3, provides that the State shall take all necessary measures to ensure the protection of everyone 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 in the declaration.

Furthermore, we would also like to refer to Human Rights Council resolution 24/5, and in particular its operative paragraph 2, in which the Council “reminds States of their obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs... 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”.