

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to education; and the Special Rapporteur on violence against women, its causes and consequences**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

REFERENCE: UA Education (1998-11) G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (33-27) G/SO 214 (89-15)  
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12 October 2012

Excellency,

We have the honour to address you in our capacity as the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to education; and the Special Rapporteur on violence against women, its causes and consequences; pursuant to Human Rights Council resolutions 16/5, 17/5, 16/4, 17/3, and 16/7.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the attempted assassination and threats against Ms. **Malala Yousafzai**, a 14 year old schoolgirl, human rights defender, an internationally-recognized activist on the right to education for girls in Pakistan, who has spoken out against extremism. She received the National Peace Award from the Government of Pakistan on 19 December, 2011, in part for her reporting on the struggle of girls living in the Swat Vally, and for her advocacy for girls' education.

According to the information received:

On 9 October 2012, gunmen of the Tehrik-i-Taliban in Pakistan (TTP) attempted to assassinate Ms. Yousafzai, and injured two other school girls in Mingora, Swat Valley, while on a school bus travelling home from school. Ms. Yousafzai was reportedly shot in the head and neck during the attack.

In a statement released to the national and international media on 10 October 2012, the spokesperson for the TTP explained that Ms. Yousafzai was targeted because "of her pioneer role in preaching secularism and so-called enlightened moderation. And whom so ever will commit so in the future too will be targeted again by the TTP." Separately, the spokesperson indicated that if Ms. Yousafzai survives, further attempts will be made on her life.

We acknowledge the significant efforts of your Excellency's Government, including its condemnation of the TTP's actions, efforts to find and arrest the perpetrators, and the medical care being provided to Ms. Malala Yousafzai, and without prejudging the accuracy of the information made available to us, serious concern is expressed that the assassination attempt against her is directly related to her advocacy work promoting human rights, in particular to her public work in defence of the right to education for girls and women in the Swat Valley. Further concern is expressed about her physical integrity given the open threat to her life publically expressed by the TTP, and the on-going threat by the TTP to attack anyone who expresses secular or moderate opinions.

Regarding the fact that Ms. Yousafzai was attacked due to her advocacy work promoting human rights, 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 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.

We would also like to refer to article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your country on 23 June 2010, which provides that every individual has the right to life and security of the person, and that this right shall be protected by law and that no person shall be arbitrarily deprived of his or her life. In addition, in its General Comment No. 31, the Human Rights Committee observed that the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. There may be circumstances in which a failure to ensure Covenant rights would give rise to violations by States Parties of those rights, as a result of States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.

We would like to further draw the attention of your Excellency's Government to the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65. In particular, Principle 4 states that effective protection through judicial or other means shall be provided to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats. Principle 9 further stipulates that there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, while Principle 18 provides that "Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice".

We wish 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 ICCPR which provides that "Everyone 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."

We would also like to draw the attention of your Excellency's Government to Human Rights Council Resolution 12/16, which calls upon states to enable children to exercise their right to express their views freely, including through school curricula that encourage the development and respect for different opinions, and to have their views taken into account in all matters affecting them, the views of the child being given due weight in accordance with the age and maturity of the child. Reference is, moreover, made to article 13 of the Convention on the Rights of the Child, ratified by your country on 12 December 1990, which provides that:

1. The child 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 the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others; or
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

We would also like to refer your Excellency's Government to article 26 of the Universal Declaration of Human Rights, as well as article 13 of the International Covenant on Economic, Social and Cultural Rights, ratified by your country on 3 November 2004, which recognized the right of everyone to education.

Furthermore, we would like to draw the attention of your Excellency's Government to General Comment No. 13 of the Committee on Economic Social and Cultural Rights, which recognizes that availability and accessibility are among four interrelated and essential features of the right to education that must be ensured by States. The Committee also stated that the obligation to respect requires States parties to avoid measures that hinder or prevent the enjoyment of the right to education and that the obligation to fulfil requires them to take positive measures that enable and assist individuals to enjoy the right to education.

We also wish to refer your Excellency to the Convention on the Rights of the Child which declares in article 28 that State Parties recognize the right of the child to education, and commit themselves to take the necessary measures in order to make primary, secondary and higher education available and accessible to all.

In addition, we would like to bring to your Excellency'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.

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 country 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 draw the attention of the Government to article 19 of the Convention on the Rights of the Child which provides that 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.

Recognizing the efforts taken to date, and in light of the foregoing, we urge your Excellency’s Government to take all necessary measures to provide swift and effective protection to Ms. Malala Yousafzai, and others like her, speaking out for their rights in all areas of Pakistan, from further attack by extremist groups. Further, we urge your Excellency’s Government to conduct a thorough criminal investigation into the incident and hold the perpetrators accountable.

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 the alleged victim?
3. Please provide the details, and where available the results, of any investigation, medical examinations, 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 indicate what measures are being taken to ensure that children, and in particular girls, are safe to travel to and attend schools without fear of violence against them, and to realize their right to receive an education, in all areas of Pakistan.
5. Please indicate what protection measures have been taken to guarantee the physical integrity of Ms. Yousafzai, as well as the right of any citizen, including children, to promote and defend human rights and fundamental freedoms, particularly in the areas under the influence of extremist groups, including the TTP.

Considering the seriousness of the allegations, we wish to inform you that we also intend to express publicly the above-mentioned concerns so as to notify the Pakistani public of such concerns.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Malala Yousafzai 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 to Ms. Yousafzai, or any other person speaking out for the provision of education for girls and women in Pakistan.

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders

Christof Heyns  
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Kishore Singh  
Special Rapporteur on the right to education

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