

Mandates of the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: AL
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 26/7 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arbitrary detention and torture and other cruel, inhuman or degrading treatment or punishment of Messrs. [REDACTED], [REDACTED], [REDACTED] and [REDACTED], by police officers of the Faisalabad District, in Pakistan, between May 2006 and December 2011, which appears to expose a systematic and ongoing pattern of torture and other forms of violence by the Faisalabad police, as well as the complete lack of accountability for such acts.

According to the information received:

The case of Mr. [REDACTED]

In December 2011, Mr. [REDACTED], a 42-year old Pakistani business owner, was at a friend's house when a group of 10 to 15 intoxicated officers from the Faisalabad District Police, including the Station House officer, forced their access into the house. Political opponents falsely informed the police that Mr. [REDACTED] and his friends were involved in gambling, a criminal offence in Pakistan. The police officers demanded that Mr. [REDACTED] and his friends pay PKR 250,000 each (approximately US\$2,500) and severely beat them in front of one of the friends' wife and children who were present. One officer kicked the woman, threatened both her and the children with abusive language, and pointed a loaded gun at them.

Mr. [REDACTED] and his friends were then forced to parade naked from the house to the police station through the town of [REDACTED] in Faisalabad District. On the

way to the police station, the Station House officer ordered Mr. [REDACTED] to walk at different speeds. In addition, Mr. [REDACTED] was beaten with fists, iron rods, wooden sticks, and the butts of guns by the Station House Officer and other police officers. In particular, Mr. [REDACTED] received blows to his forehead.

When they reached the police station, Mr. [REDACTED] fell unconscious and police officers revived him by throwing water in his face. Mr. [REDACTED] and his group of friends were then placed in a cell at the police station where he was detained for three days without an arrest order. His official arrest was only registered after those three days.

During the three days of detention, Mr. [REDACTED] was not allowed to contact a lawyer nor his family.

As a result of the beating, Mr. [REDACTED] has sustained multiple injuries all over his body, particularly to his shoulder. His eyesight was also affected, preventing him from moving and walking properly for a long time after the incident.

On 15 December 2012, Mr. [REDACTED] was examined by a government doctor, who documented in a Medico-Legal Certificate the torture Mr. [REDACTED] was subjected to. Mr. [REDACTED] is today still undergoing treatment for his injured shoulder.

Mr. [REDACTED] has sought remedies by, inter alia, approaching several higher officials, but without success to this day.

The case of Mr. [REDACTED]

At the end of March 2011, Mr. [REDACTED], a 20-year old Pakistani transporter of goods, was arrested during a bus trip from [REDACTED] to [REDACTED] in the Faisalabad District in Pakistan, by Faisalabad District police officers for illegal possession of a firearm.

Mr. [REDACTED] was arrested from a check point under the jurisdiction of Barnala Police Post, and then transferred to Jhumra police station, where he was severely beaten before being taken to Sahianwala police station.

During the day, police officers of Sahianwala police station brought Mr. [REDACTED] to a private building in a nearby village. Reportedly, the officers who tortured Mr. [REDACTED] include the assistant sub-inspector from Jhumra Faisalabad District Police and two other inspectors from the Sahianwala District police.

Mr. [REDACTED] was subjected to various forms of torture: his wrists were tied behind his back with a rope that suspended him from the ceiling with this rope, forcing his arms and shoulders to bear the entire weight of his body; his right leg was tied to one end of a bed and a second bed was placed on top of him; his arms were then stretched over the top of the second bed and tied to his feet; he was forced to

lie on his stomach on a bed and his body was stretched in a way that his feet touched the back of his head. In addition, Mr. [REDACTED] was whipped with bamboo sticks all over his body inflicting in particular severe injuries to his head.

During the detention, Mr. [REDACTED] was not allowed to contact his family nor a lawyer. After 8 days, he paid someone to contact his brother and tell him that he was being detained.

On 28 March 2011, Mr. [REDACTED] was examined by a government doctor who issued a Medico Legal Certificate recording various forms of torture. Today, as a result of the suspension, Mr. [REDACTED]'s shoulder and back muscles are severely damaged and continue to cause him extreme pain, for which he is still undergoing treatment.

The case of Mr. [REDACTED]

In the last week of September 2007, Mr. [REDACTED], a 28-year old Pakistani mill worker, and his friend were arrested without a warrant, in an ice cream shop in [REDACTED] in Pakistan by police officers from Faisalabad District. Mr. [REDACTED] and his friend were falsely suspected of having been involved in a robbery.

Mr. [REDACTED] and his friend were held in a private residential house for four days, during which they were subjected to various forms of torture by six or seven police officers, reportedly under the orders of the Station House officer of the P/S D-Type Colony of Faisalabad District.

While in police custody, Mr. [REDACTED] was held in a dark, humid and hot room with insufficient ventilation; he was beaten with a leather strap; burnt with cigarettes, and, with his hands tied behind his back, he was subjected to various forms of suspension. Police officers stuck needles into the soles of Mr. [REDACTED]'s feet. One needle broke and a part of the needle was left in his foot.

Mr. [REDACTED] was also subjected to sexual violence: police officers stripped him and his friend naked and tortured them in front of one other; they inserted red chili powder in Mr. [REDACTED]'s anus during the suspension.

During the four days in police custody, Mr. [REDACTED] was only given food once. And due to pain and exhaustion, Mr. [REDACTED] lost consciousness several times over this period.

In addition, police officers threatened to falsely charge Mr. [REDACTED]'s brother with robbery if he and his friend did not confess to the theft accusations. After four days of torture, Mr. [REDACTED] and his friend gave in and made this confession. They were subsequently taken to the police station, where they were detained for

another 12 days before being presented before the court. Based on the forced confessions, Mr. [REDACTED] was found guilty and sentenced to five months in jail.

Throughout his detention, Mr. [REDACTED] was denied access to a lawyer and to his family.

On 29 September 2007, a few days after having been tortured, Mr. [REDACTED] was examined by a government doctor, and the resulting Medico Legal Certificate firmly documented the torture. Due to having been repeatedly suspended during his detention, Mr. [REDACTED]'s arm joints are permanently damaged and continue to cause him pain, especially during the winter.

Mr. [REDACTED] has pursued no domestic remedies and when his father indicated his intention to file a case against the police, the police officers threatened to falsely charge Mr. [REDACTED]'s brother with robbery and arrest him too. As a consequence, Mr. [REDACTED]'s father decided not to file a case against the police.

The case of Mr. [REDACTED]

At the end of May 2006, early in the morning, Mr. [REDACTED], a 40-year old Pakistani business owner was blind-folded and taken to a deserted house outside the city of Faisalabad in Pakistan by officers from the Faisalabad District Police, along with a group of other people. Reportedly, this intervention was based on false accusations made by another man from the village and according to which Mr. [REDACTED] and one of the other persons in the group had been involved in the kidnapping of a relative. Both Mr. [REDACTED] and the other person were eventually acquitted of all charges due to lack of evidence.

While detained by the Faisalabad District Police, Mr. [REDACTED] was tied up and placed in a dark and very hot room with only small amounts of water. In addition, police officers tortured Mr. [REDACTED] by hanging him by his feet from an oak tree and beating him; he was also hung from his arms causing both of his shoulders to dislocate; he was beaten with a leather strap, which caused heavy swelling to his head; he was stretched between two beds after he fell unconscious due to the pain. The police officers then revived Mr. [REDACTED] with water and resumed the beating as he regained consciousness; they sexually abused and humiliated him by, inter alia, tying a string around his genitals while he was hanging from the oak tree, which they then used to pull and tug at his genitals; they administered electric shocks to his penis, causing him to pass out from the pain. Throughout the torture, the police forced other victims to witness the abuse.

After three days, Mr. [REDACTED] was taken to Gulberg police station in Faisalabad District and was officially arrested. Mr. [REDACTED] was denied access to a lawyer and his family and at no time did the police inform Mr. [REDACTED]'s family of his whereabouts.

On 30 May 2006, a few days after having been subjected to the torture, Mr. [REDACTED] was examined by a government doctor who recorded his head injuries in a Medico-Legal Certificate (MLC) and referred him to a Neurosurgeon. The MLC also noted that Mr. [REDACTED] was unable to move his legs and that he had a scar above his left eye brow.

Mr. [REDACTED] and his family have suffered severely from the effects of the torture, physically, psychologically and economically: Mr. [REDACTED] is paralyzed from the waist down; after the incident, he suffered heavy swelling in his head and severe injuries to several of his joints, which took more than 6 months to heal; and he is still on daily medication for injuries and ailments caused by the abuse he was subjected to while in police custody.

Mr. [REDACTED] has so far abstained from seeking domestic remedies due to, inter alia, his weak physical condition, his lack of economic resources especially after the expenses related to his court case and medical treatment, and out of fear of retaliation.

Widespread, ongoing and systematic police brutality and torture

According to the information received, police brutality and torture are widespread and systematic in Faisalabad District. The most common method of abuse is beating, but the violence and abuse endured by victims often takes multiple forms, including strappado (hanging the victim by his wrists, with his arms pulled behind his back), manji (tying the victim's arms and legs to a bed and stretching them), and falanga (beating the victim's feet with a stick). There are also reports of police officers sexually assaulting victims, forcing victims to witness the torture of others, and ordering victims to strip naked and parade in public. Moreover, according to the information received, pregnant women have been kicked unconscious for several days resulting, among other things in miscarriage.

Information from the Faisalabad District Standing Medical Board (DSMB) supports these findings. The DSMB, set up by the government to conduct medical examinations in response to allegations of torture, is composed of four government-appointed physicians, who evaluate victims' allegations of police abuse and record any physical marks, psychological trauma, or other signs of mistreatment in Medico-Legal Certificates. In 1,424 of the 1,867 Medico-Legal Certificates prepared by the DSMB, physicians found conclusive signs of abuse. In 96 other cases, physicians found signs indicating injury that required further testing for confirmation. The 1,867 Medico-Legal Certificates represent cases of victims who were willing to come forward and report mistreatment, but it is alleged that there are many more victims of police brutality and torture in Faisalabad who are unwilling to file a complaint against the police and have an

Medico-Legal Certificate issued out of fear of retaliation or that their complaint would prove ineffective.

Concerns are expressed at the arbitrary detention, torture and other cruel, inhuman or degrading treatment or punishment of Messrs. [REDACTED], [REDACTED], [REDACTED] and [REDACTED] by Faisalabad District police officers in Pakistan, over the period between May 2006 and December 2011. Grave concerns are also expressed at the allegations regarding the systematic and ongoing pattern of torture and forms of violence by the Faisalabad police as well as the complete lack of accountability for those acts.

In connection to 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.

As 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 be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations of arbitrary detention, torture and ill-treatment
2. Please provide information on whether complaints have been received.
3. Please comment on the use of forced confessions before national courts and the application of the exclusionary rule.
4. In the event that the alleged perpetrators have been identified, please provide the full details of any prosecutions which have been undertaken. Have any penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. In continuation of this, please describe the steps taken to provide the victims with adequate compensation.
6. Please provide information on any efforts carried out to investigate the alleged pattern of police brutality in Faisalabad District and the steps taken to counter it.

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 persons 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.

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

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

Annex
Reference to international human rights law

With regards to the arbitrary detention, we would like to recall the obligations that your Excellency's Government has undertaken under the International Covenant on Civil and Political Rights (ICCPR), ratified by Pakistan on 23 June 2010, which provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6). When the State detains an individual, it is held to a heightened level of diligence in protecting that individual's rights. When an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility (see, for instance, the Human Rights Committee's conclusions in the case of *Dermit Barbato v. Uruguay*, communication no. 84/1981 (21/10/1982), paragraph 9.2).

With regards to the allegations of torture and ill-treatment, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Pakistan ratified on 23 June 2010, and reiterated, *inter alia*, in Human Rights Council Resolution 25/13 and paragraph 1 of General Assembly Resolution 68/156.

We would like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners (adopted by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977); to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 (adopted by General Assembly resolution 43/173 of 9 December 1988); and to the fact that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

We would also like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly Resolution 68/156 which "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished."

We urge your Government to carry out a prompt, impartial and transparent inquiry into the circumstances described above, including with a view to taking all appropriate disciplinary and prosecutorial action, ensuring accountability of any person guilty of the alleged violations, and compensating the victims, as codified, *inter alia*, in article 12 of the CAT. In this respect we note that paragraph 7(b) of Human Rights Council Resolution 16/23 urges States to hold responsible not only those who perpetrate torture, but also those who encourage, order, tolerate or perpetrate such acts; to have them brought to justice and punished in a manner commensurate with the gravity of the

offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed.

In this regard, we would also like to remind you that paragraph 7e of Human Rights Council Resolution 16/23 which urges States “[t]o ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation [...]”

Finally, we wish to remind your Excellency’s Government of Article 13 of the CAT which states that: “[e]ach State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.”

With regards to torture victims’ access to remedies, we would like to refer your Excellency’s Government to Article 2(3) of the International Covenant on Civil and Political Rights which provides that “[e]ach State Party [...] undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity [...]”

Furthermore, we would like to refer to Article 9(1) of the ICCPR which provides that “[e]veryone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.”

In relation to confessions obtained through torture, Article 14(3) of the ICCPR states that “[i]n the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (g) Not to be compelled to testify against himself or to confess guilt.”

Finally, Principle 1 of the Basic Principles on the Role of Lawyers provides for the right of everyone to be assisted by a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.