

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

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

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

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (33-27)
PAK 11/2011

30 December 2011

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; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/4, 15/21, 16/5, and 17/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the killing of **Mr. Zarteef Afridi**, coordinator of the Human Rights Commission of Pakistan (HRCP) in Khyber Agency, one of the tribal areas in the Federally Administered Tribal Areas (FATA) in the northeast of Pakistan. HRCP was founded in 1986 to provide an informed and independent voice in the struggle for human rights in Pakistan. Mr. Afridi was a school teacher and headmaster in Khyber Agency and had been a member of HRCP since 1992.

A previous communication, concerning the killings of two members of HRCP, Mr. Siddique Eido and Mr. Naeem Sabir, was sent on 24 May 2011 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on extrajudicial, summary or arbitrary executions. We regret that to date no reply to this communication has been transmitted by your Excellency's Government.

According to the information received:

On the morning of 8 December 2011, it is reported that, Mr. Zarteef Afridi was shot by unknown men while on a motorcycle on his way to work in a local school where he served as headmaster. It is reported that the perpetrators approached him in the area of Ghundai near Jamrod Bazaar, Khyber Agency.

It is alleged that, before his death Mr. Afridi had been working with a number of peace groups in campaigning for the release of dozens of prisoners under the Frontiers Crimes Regulations. He was also involved in organising a congregation of tribal elders to campaign against terrorism and extremism in the area. He had allegedly, received death threats in the past from local militants for his human rights and peace work in the FATA.

The killing of Mr. Afridi reportedly comes in the context of on-going harassment and violations against staff of HRCF. He is the third member of HRCF to be killed this year, following the killing of Mr. Siddique Eido, journalist and HRCF member, in Balochistan and Mr. Naeem Sabir, HRCF Coordinator in Khudzar district, Balochistan. Both of them were shot dead by unknown assailants.

Concern is expressed that the killing of Mr. Zarteef Afridi may be directly related to his human rights work and in particular his work against terrorism and extremism in FATA. Further concern is expressed for the physical and psychological integrity of members of HRCF particularly in light of the killings of three of its members this year.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw the attention of your Excellency's Government to the international norms and standards relevant to the present case.

The right to life and the protection of every individual against arbitrary deprivation of life are enshrined in article 6 of the International Covenant on Civil and Political Rights (ICCPR), which the Government of Pakistan ratified on 23 June 2010. We wish to remind your Excellency's Government that in all suspected cases of extrajudicial, summary or arbitrary executions, there shall be a thorough, prompt and impartial investigation. Such investigation shall determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death" (Principle 9 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions).

Additionally, 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 as required by article 2 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. ... As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. These obligations arise notably in respect of those violations recognized as criminal under either domestic

or international law, such as summary and arbitrary killings (article 6).” (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).

Furthermore, 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 “[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.”

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that “[e]veryone shall have the right to freedom of association with others...”.

Furthermore, we would like to draw the attention of your Excellency’s Government’s attention to Human Rights Council’s resolution 15/21, in which the Council “[c]alls upon States to respect and fully protect the rights of all individuals to... associate freely, including... human rights defenders... seeking to exercise or to promote th[is] right...” (OP1).

In this connection, 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.”

Moreover, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 6, point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; and

- 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.

Regarding the allegations received indicating that the perpetrators of the violations reported are non-State actors, we would like to call to the attention of your Excellency's Government the Human Rights Council Resolution 13/13 of 15 April 2010, which recognizes "the immediate need to put an end to and take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms for all" as well as to adopt the necessary measures to prevent such acts. In this Resolution the Human Rights Council also "urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity."

Furthermore, the Special Rapporteur on the situation of human rights defenders, in her report to the General Assembly A/65/223 of 4 August 2010, stated that "the responsibility of non-State actors to respect the rights of human rights defenders does not relieve the State of its obligations under human rights law to respect, protect and fulfil human rights, including those of human rights defenders. (...)" The Special Rapporteur argued that the State's obligation to protect "first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State's responsibility. Secondly, States should provide defenders victims of human rights violations with an effective remedy. To that end, all violations of the rights of defenders should be investigated promptly and impartially and perpetrators prosecuted. Fighting impunity for violations committed against defenders is crucial in order to enable defenders to work in a safe and conducive environment."

We urge your Excellency's Government to take all necessary measures to ensure a prompt, impartial and thorough investigation into the alleged killing of Mr. Zarteef Afridi and that any person responsible for this violation is brought to justice. We also request that your Excellency's Government adopts effective measures to prevent the recurrence of these acts, including measures to protect the security of HRCP members.

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:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to the killing of Mr. Zarteef Afridi. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please provide details of any protective measures which have been put in place to guarantee the physical and psychological safety and integrity of members of HRCP.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports 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
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

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