

Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

RÉFÉRENCE: UA
PAK 6/2016:

16 March 2016

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 24/6, 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 **allegations of threats and attempted assassination of Adnany**, human rights defender and transgender activist, and the discriminatory attitude towards her by staff at the Lady Reading Hospital in Peshawar.

Adnany (name on identity document: [REDACTED]), is a transgender human rights defender. She is also co-administrator of the TransActions Page, an online platform of the Transaction Alliance that promotes and protects the right of persons of transgender identity in the province of Khyber Pakhtunkhwa. Adnany participated in rallies, press-conferences and meetings demanding rights for transgender persons.

According to the information received:

On 5 January 2016, Adnany was shot and critically wounded by two motorcyclists, who aimed at the car she was travelling in. Adnany identified the two alleged perpetrators, both of whom had reportedly threatened her numerous times in the months prior to the attack. Adnany was subsequently brought to Lady Reading Hospital in Peshawar, where she was denied treatment by several doctors due to her transgender identity. After 3 hours of delay, she was operated on to remove the bullet.

At the time of this communication, Adnany was recovering at a safe house for transgender persons. She lodged a complaint with the Chamkani Police. However at the time of writing, the police had failed to make any arrest and were allegedly putting pressure on Adnany to make reconciliation with her shooters.

Adnany had previously received threats such as threatening phone calls and visits to her home, in which they demanded "Stick to your own business and forget about demanding rights", after she had become involved with the Transaction Alliance. It is also alleged that other members of the TransAction Alliance have also been receiving threatening phone calls.

Grave concern is expressed at the recurrent threats and subsequent shooting of Adnany, and that those acts are directly related to her legitimate human rights work in the promotion and protection of the rights of persons of transgender identity. Further concern is expressed at the initial denial of medical treatment on the basis of gender discrimination by hospital personnel towards Adnany due to her transgender identity.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The above mentioned allegations appear to be in contravention with articles 1, 2 and 3 of the Universal Declaration on Human Rights (UDHR), which provide for the rights to equality, non-discrimination of any kind and the right to life. We would also like to refer to article 6 (1) and 26 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Pakistan in 2010, which provide for the right to life, security and not to be arbitrarily deprived of life, and the prohibition of discrimination.

The Human Rights Committee in its General Comment 6, para. 3, has said that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts. We also want to recall that the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Principle 4) establish the obligation of States to ensure effective protection to those who receive death threats and are in danger of extra-legal, arbitrary or summary executions.

Furthermore, we would also like to refer to 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 7 and 12, which provide for the right to promote and to strive for the protection and realization of human rights and fundamental freedoms and the right to participate in peaceful activities against violations of human rights and fundamental freedoms.

We also wish to refer to the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Pakistan in 2008, which in article 12 commits its States Parties to recognize the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health. In this connection, we would like to refer to underline that the Covenant proscribes any discrimination in access to health care and underlying determinants of health on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, sexual orientation and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to health. (GC 14, Para.18)

Finally, we would like to recall resolutions 17/19 and 27/32 of the Human Rights Council, expressing grave concern for acts of violence and discrimination committed against individuals because of their sexual orientation and gender identity and recommendations of UN human rights treaty bodies and special procedures mandate holders that States inter alia prohibit discrimination on the basis of gender identity, give legal recognition to the gender identity of transgender persons without abusive preconditions, and combat transphobic violence, including through effectively investigating such acts, prosecuting alleged perpetrators, providing remedy to victims, and training law enforcement officers (A/HRC/29/23, A/HRC/19/41).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

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.
2. Please provide details of the investigation into the alleged assassination attempt of Adnany, including the full details of any prosecutions that have been undertaken.
3. Please provide information about actions taken with regard to the discriminatory conduct by staff at the Lady Reading Hospital in Peshawar, who initially refused to provide Adnany with medical treatment.
4. Please indicate what measures have been taken to ensure that human rights defenders in Pakistan, including those working on the rights of transgender persons, are

able to carry out their legitimate work in a safe and enabling environment without fear of death threats or acts of intimidation and harassment of any sort.

5. Please indicate what measures have been taken to ensure that transgender persons in Pakistan have access to effective legal recognition of their gender identity, as well as measures to prohibit and combat discrimination against transgender persons, to prevent, investigate and prosecute violence against transgender persons, provide effective remedy, protection and support to transgender victims of violence, as well as providing training to healthcare professionals and/or law enforcement officers on respect for the rights of transgender persons.

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 responsible of 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.

Dainfus Puras

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Michel Forst

Special Rapporteur on the situation of human rights defenders

Christof Heyns

Special Rapporteur on extrajudicial, summary or arbitrary executions