

Mandates of 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; the Special Rapporteur on the right to privacy and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE:
AL PAK 2/2018

5 June 2018

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 situation of human rights defenders; Special Rapporteur on the right to privacy and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 34/18, 34/5, 37/2 and 32/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the burglary and intimidation of **Ms. Maryam Hasan**.

Ms. Maryam Hasan is a human rights defender and editor of the Human Rights Commission of Pakistan's (HRCP) "State of Human Rights" report, which showed an increase in enforced disappearances and blasphemy-related attacks on journalists and bloggers.

According to the information received:

On 19 April 2018, three days after the release of the Human Rights Commission of Pakistan's (HRCP) "State of Human Rights" report, at approximately 8.45 p.m., two armed men broke into Ms. Hasan's house while she was at home. Ms. Hasan, who lives alone, was pushed around the house by the assailants and confined to one room, while the armed men took turns to watch her. She was threatened with handguns and was told that she would be shot if she attempted to draw attention to the burglary. Ms. Hasan was told that the two men had come the day before, but had not tried to enter as she was not at home.

During the burglary, Ms. Hasan was repeatedly asked about the work that she did, who she worked for, and what she was working on on her laptop. When she replied, stating that she was retired and did freelance work, the assailants told her that she was lying. Towards the end of the burglary, one of the assailants questioned Ms. Hasan about her religion, caste, parents and marital situation. After this, the other assailant signalled that it was time to leave, at which point they pushed Ms. Hasan into the kitchen, locked her in, and left. It was later discovered that the two men had taken her laptop, two hard drives, two mobile phones and some jewellery and cash.

After the incident took place, on the night of 19 April 2018, police arrived at Ms. Hasan's home. The first police officer to arrive at the scene told Ms. Hasan's driver to advise her not to make a First Information Report (FIR). On 21 April 2018, one of Ms. Hasan's relatives went to the police station to register a FIR on her behalf. During this time, he was asked to wait, while the Station House Officer (SHO), in the company of the first officer on the scene on 19 April, called Ms. Hasan twice without her relative's knowledge. During the phone calls, Ms. Hasan was asked whether her mother was from the UK (information that she had not shared), and was questioned on the contents of the HRCF report, along with where and when it had been published. The SHO then told Ms. Hasan's relative that the case would have to be referred to his superiors. They said additionally that their system was down and could not generate a FIR number.

On 22 April 2018, after repeatedly following up with the police, Ms. Hasan received a copy of the registered FIR. On 23 April 2018, an inspector and two other officers arrived at Ms. Hasan's house to speak with her, where they conceded that it was not a normal burglary. They later left without obtaining CCTV footage from a nearby house, despite the fact that the owner and security camera engineer were standing outside.

We express serious concern over the burglary and harassment of Ms. Hasan which, in light of the property stolen and interrogations directed at Ms. Hasan, seems to be directly connected to her peaceful and legitimate work in the defence of human rights.

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.

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 be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on any investigation or prosecution underway with regards to the above-mentioned allegations, along with any results obtained therein. If no such investigation has taken place, please explain why.
3. Please provide information about the reason why no FIR could be filed in this case.

4. Please provide detailed information on any specific measures which have been undertaken by authorities to ensure the physical and psychological security of Ms. Hasan, as well as members of her family, to ensure that she is able to carry out her important work in the defence of human rights in a safe and enabling environment.
5. Please indicate what measures, in general, have been taken to ensure that human rights defenders in Pakistan are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Joseph Cannataci
Special Rapporteur on the right to privacy

Dubravka Šimonović
Special Rapporteur on violence against women, its causes and consequences

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to articles 6, 9 and 19 of the International Covenant on Civil and Political Rights (ICCPR), which Pakistan ratified on 23 June 2010, which guarantee the rights to life, liberty and security of person and freedom of opinion and expression.

We wish to bring to your Excellency's Government's attention article 2(1) of the ICCPR which establishes a general duty to ensure the rights recognized by the ICCPR. The Human Rights Committee clarified that "States parties have a positive obligation to ensure the protection of individuals against violations of Covenant rights, which may be committed not only by its agents, but also by private persons or entities" in the case of *Peiris v. Sri Lanka* (CCPR /C/103/D/1862/2009).

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.

We would further like to refer to Human Rights Committee General Comment no. 35 which states that the right to personal security under article 9 ICCPR obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. It additionally notes that States must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury.

We would like to draw your attention General Assembly Resolution 68/181 which urges States to acknowledge publicly the important and legitimate role of women's rights defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection, including by publicly condemning violence and discrimination against them. (OP7)

We would like to draw your attention to General Assembly resolution 68/181 as well as Human Rights Council resolution 31/32, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves. (OP5, 19 and 20)

In connection with the above alleged facts and concerns 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, 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 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 6 (a and b), which provides for the rights to know, seek, hold, obtain and receive information on all human rights and fundamental freedoms, along with the right to freely publish and disseminate such information;

- Article 12 (2 and 3), which 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 to in the Declaration.

Additionally, we would like to refer to article 17 of the ICCPR, which protects the right to privacy and provides that no one shall be subjected to arbitrary or unlawful interference with his or her privacy. The Human Rights Committee stated in its General Comment 32 (par. 8) that the positive obligations on States Parties under ICCPR are only fully discharged if individuals are protected by the State, not just against violations of their rights by its agents, but also against acts committed by private persons or entities.