

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
AL PAK 4/2018

16 July 2018

Excellency,

We have the honour to address you in our capacities as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 36/6, 34/18 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **intimidation of journalists and media outlets ahead of elections in Pakistan**.

General elections are scheduled for 25 July 2018. In the run up to the elections, an all-pervading atmosphere of fear of speaking out has been reported, especially for journalists and activists.

According to the information received:

*Concerning the case of Ms. **Gul Bukhari***

Ms. Gul Bukhari is a British-Pakistani journalist, columnist and human rights defender. She is a political analyst with Waqt TV; and a Sunday columnist with The Nation. In recent years she has been subject to a number of threats. These threats range from rape to murder, and the harassment has ranged from sexual to branding her as a foreign agent and being anti-state.

On 5 June 2018, while on her way to Waqt News to appear in a live television show on current affairs, the Waqt News vehicle in which she was travelling was intercepted at 10.45 pm by several vehicles on a major road of Lahore Cantonment. The driver and Ms. Bukhari were surrounded by fifteen to twenty men. Ms. Bukhari tried to fight back and run away but was overpowered by four or five men, her neck throttled to stop her screams. She was then bundled into one of the intercepting cars, blindfolded and driven away.

After the act of abduction, she was not further harmed. She returned home after four hours at 3.45 am on 6 June 2018.

The Chairman of the Standing Committee on Human Rights of the Senate has called for an immediate investigation by the police. The police registered a First

Information Report (FIR) and took Ms. Bukhari's statement in which she asked for her family and herself to be provided security. The Chairman of the Standing Committee on Human Rights has ordered the Punjab government and Punjab police to provide security to Ms. Bukhari but this has not yet been done.

On 13 June 2018, Ms. Bukhari met with the Director General of the Inter Services Public Relations and welcomed his call of a thorough investigation.

Intimidation against Dawn

Dawn is a leading English-language newspaper. Since 2016 and with a greater intensity since May 2018, Dawn has seen its circulation heavily disrupted in the country and it has come under intense pressure for its independent editorial policy. Following the publication of an interview with former Prime Minister Nawaz Sharif in May 2018, the attacks intensified against the newspaper. In the published interview, the former Prime Minister made a veiled reference to Pakistan's failure to stop the militants who carried out the attack in Mumbai in 2008 and the failure to complete the trial of those arrested for their involvement. Military officials reportedly believe it was Dawn's responsibility to edit out these statements in the "national interest".

Since then, an organized campaign has portrayed Dawn as anti-state, and the editor is described as being part of a conspiracy against Pakistan. News agents have been warned against stocking the newspaper and street vendors have been harassed and intimidated for selling it. Large parts of Balochistan remain without the paper, and it is not being allowed in many parts of Sindh and in many towns in Punjab. More recently, it has been reported that the authorities have started collecting data of Dawn's subscribers in some cities in Punjab.

We express serious concern at the intimidation of journalists and media ahead of elections, at a time when the role of media is of utmost importance. Such a situation contributes to the existing hostile environment for the exercise of fundamental freedoms in Pakistan and seriously hampers the functioning of an institutional framework and society based on the rule of law and human rights.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** 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/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information about the status of the investigation into the abduction of Ms. Bukhari, including information on whether anyone has been arrested or prosecuted, and the status of any on-going trial. If no such investigation has taken place, please explain why.
3. Please provide information about why Ms. Bukhari and her family have not been provided with protection measures.
4. Please provide information about measures taken to ensure that media can operate in a manner free from political and other forms of interference.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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.

Please accept, Excellency, the assurances of our highest consideration.

Bernard Duhaime
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we wish to draw the attention of your Excellency's Government to the applicable international human rights law and standards:

Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Pakistan on 23 June 2010, provides that "every human being has the inherent right to life [which] shall be protected by law. No one shall be arbitrarily deprived of his life." This right is similarly guaranteed by article 3 of the Universal Declaration on Human Rights (UDHR). Article 9 of the Constitution of Pakistan reflects the language of article 6(1) ICCPR and provides that "No person shall be deprived of life or liberty, save in accordance with law."

As stated by the Human Rights Committee in its General Comments Nos. 6 and 31, the inherent right to life guaranteed by article 6(1) ICCPR must not be narrowly interpreted and includes the obligation of States to adopt positive measures to protect the right to life of individuals, and to prevent, investigate, prosecute and punish perpetrators, and redress the harm caused by State and non-State actors. The latter category, according to international human rights standards, includes private individuals where there is a pattern of killings as appears to be the case in the killing of Mr. Kahn. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR (General Comment No. 31, para. 15).

We would also like to appeal to your Excellency's Government to take all measures to guarantee the right to freedom of opinion and expression, as provided in article 19 of the ICCPR. Freedom of expression entails that "everyone shall have the right to hold opinions without interference" as well as 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." This right includes not only the exchange of information that is favorable, but also that which may shock or offend.

The obligation to respect the freedom of opinion and of expression is binding on every State party as a whole, including public universities. Furthermore, this obligation also requires the State "to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to the extent that these Covenant rights are amenable to application between private persons or entities" (see Human Rights Committee General Comment 34, para. 7).

In its General Comment No. 34 on Freedoms of opinion and expression (CCPR/C/GC/34), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedoms of opinion and expression, including inter alia 'political discourse, commentary on one's own and on public affairs, canvassing,

discussion of human rights, journalism’, subject only to admissible restrictions (see above) as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination.

In its General Comment No. 25 on Participation in Public Affairs and the Right to Vote (CCPR/C/21/Rev.1/Add.7), the Human Rights Committee set out that ‘[i]n order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.’ It requires the full enjoyment and respect for the rights and freedoms to ‘engage in political activity individually or through political parties and other organizations ... to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.’

In addition, the Declaration on the Protection of All Persons from Enforced Disappearances establishes that no State shall practice, permit or tolerate enforced disappearances (Article 2) and that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (Article 7). In its article 13.3, the Declaration also proclaims that steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal. Moreover, the Working Group on Enforced or Involuntary Disappearances stresses that there is no time limit, no matter how short, for an enforced disappearance to occur and that accurate information on the detention of any person deprived of liberty and their place of detention shall be made promptly available to their family members.