

**Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on minority issues**

REFERENCE:  
UA PAK 8/2020

11 June 2020

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 34/19, 36/6, 35/15, 34/5, 34/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the continued disappearance and risk of torture and ill-treatment of Mr. **Idris Khattak**.

The case of Mr. Idris Khattak has been considered by the Working Group on Enforced or Involuntary Disappearance, through its humanitarian individual case procedure, and was communicated to Your Excellency's Government on 4 June 2020.

Mr. Khattak is a human rights defender, belonging to the Pashtun minority, who previously worked for a number of international non-governmental human rights organisations. Up to his disappearance, he worked to independently document and advocate against a range of human rights violations in the Khyber Pakhtunkhwa Province and the former Federally Administered Tribal Areas in Pakistan.

According to the information received:

On 13 November 2019, a group of four unidentified plain-clothed men intercepted Mr. Khattak's car near the Swabi Interchange of Khyber Pakhtunkhwa. The men put black sacks over the faces of Mr Khattak and his driver and drove them to an undisclosed location. Mr Khattak's family became aware of his disappearance only after the driver was released on the night of 15 November 2019. Since his disappearance, the family has not been contacted by any persons demanding a ransom, which suggests that the abduction was not a kidnapping for that purpose.

On 18 November 2019, a FIR was registered at the Chota Lahore Swabi Police Station and on 23 November 2019, and a habeas corpus petition was filed in the Peshawar High Court. However, it was not until 10 January 2020, that the court ordered the government to report on Mr Khattak's whereabouts. Since the court's

directive, there has allegedly been no update provided by the authorities in the case.

There is a reported pattern of targeting human rights defenders with enforced disappearances in Pakistan, a practice which appears to be typically used as a tool to quell their dissent and criticism of the Government and the military policies. Many of the human rights defenders who have been arrested or subjected to enforced disappearance usually have been deprived of their basic rights, including their right to medical assistance and to contact their families or lawyers. They have been kept in poor and often degrading conditions, and often subjected to abuse, including torture. Those who are released are threatened into silence and face the risk of further violence against themselves and their families.

Successive governments have promised to criminalise enforced disappearances but it is yet to become law in Pakistan. No concrete steps have been taken so far, and the practice of enforced disappearance continues in the country with impunity.

Mr. Khattak suffers from diabetes, which requires daily medical treatment. He has now disappeared for seven months. To date, his family has no information regarding his fate and whereabouts.

We express our most serious alarm at the alleged enforced disappearance of Mr. Khattak. The lack of information about his fate and whereabouts since his abduction increases the risk that he may be exposed to torture or ill-treatment or to the loss of his life. While we do not wish to prejudge the accuracy of the information received, should the allegations be confirmed, they would violate article 6 (right to life), article 7 (prohibition of torture and other cruel, inhuman or degrading treatment or punishment), article 9 (right to liberty and security of person), article 10 (1) (right to be humane treatment during deprivation of liberty), article 16 (recognition as a person before the law) and article 27 (protection of minorities) of the International Covenant on Civil and Political Rights (ICCPR), which Pakistan ratified on 23 June 2010. These violations would also contravene the protections provided for by the Declaration on the Protection of all Persons from Enforced Disappearance adopted by the General Assembly Resolution 47/133 of 18 December 1992, particularly articles 1, 2, 3, 7, 9, 10, 13, 17 and 19.

We would like to remind your Excellency's Government that while enforced disappearance is a crime in itself, it may also amount to torture or other cruel, inhuman or degrading treatment or punishment, and is a serious violation of international law. The Committee against Torture<sup>1</sup> and the Human Rights Committee<sup>2</sup> have concluded that

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<sup>1</sup> See, for example, conclusions and recommendations on the second periodic report of Algeria (A/52/44, para. 79), on the initial report of Namibia (A/52/44, para. 247) and on the initial report of Sri Lanka (A/53/44, paras. 249 and 251).

enforced disappearances may amount to torture and other forms of ill-treatment both with regard to the disappeared and with regard to their family members, due to the anguish and uncertainty concerning the fate and whereabouts of loved-ones. The absolute and non-derogable prohibition of torture and other ill-treatment is codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Pakistan ratified on 23 June 2010. This prohibition allows for no exception and must be respected under all circumstances.

Mindful of the reportedly pervasive impunity surrounding cases of enforced disappearances in Pakistan, we are seriously alarmed that your Excellency's Government has not provided any conclusive information as to the fate and whereabouts of Mr. Khattak.

The failure to acknowledge deprivation of liberty by state agents and refusal to acknowledge detention constitute an enforced disappearance. In this regard, we would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly Resolution 68/156 (February 2014), 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 also recall the communication transmitted by a group of Special Procedures mandate holders on 30 December 2019, concerning the Khyber Pakhtunkhwa Actions (In Aid of Civil Power) Ordinance 2019 (OL PAK 10/2019), which assigns wide-ranging powers to the armed forces and may have resulted in an increase of human rights violations, including enforced disappearances.

We are further concerned that Mr. Khattak's alleged disappearance may be in retaliation for his independent work documenting human rights violations in Khyber Pakhtunkhwa Province. If this was the case, his disappearance would also constitute a violations of article 19 (2) of the ICCPR, which provides 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." Article 12(2) of the Declaration of Human Rights Defenders states that the State shall take all necessary measures to ensure the protection by the competent authorities 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. Furthermore, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, refers to the obligation of States to protect the existence and the identity of minorities within their

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<sup>2</sup> CCPR/C/50/D/440/1990 (24 March 1994), para. 5.4.

territories and to adopt measures to that end (article 1), as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4). The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 urgently provide information on the fate and whereabouts Mr. Khattak.
3. Please provide information on the steps taken by the relevant authorities to investigate the allegation of enforced disappearance of Mr. Khattak in order to clarify his fate and whereabouts and to ensure the protection of his human rights including, most notably, his rights to life, liberty, personal security, and integrity.
4. If Mr. Khattak was deprived of his liberty, please provide information on the factual and legal grounds for his arrest and detention, and how the lack of information surrounding his arrest and detention, which amounts to incommunicado or secret detention since 13 November 2029, is compatible with the international human rights obligations of Pakistan.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We may consider to publicly express our concerns in this case as, in our view, the alleged enforced disappearance of Mr. Khattak, regardless of its motives, is a matter that warrants the most urgent attention on the part of the Government. We are all the more concerned in this case, given the reported broader pattern of disappearances and other human rights violations allegedly inflicted upon human rights defenders. **Given the urgency and importance of the matter, we would appreciate a response to this communication at your earliest convenience.** Any public expression of concern on our part will indicate that we have been in contact with your Excellency's Government's, though this and earlier communications, to clarify the issue/s in question.

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

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment

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