

**Mandates of the Special Rapporteur on the situation of human rights defenders and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

Ref.: AL PAK 5/2022  
(Please use this reference in your reply)

26 July 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 43/16 and 41/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the threatening at gunpoint of trans woman human rights defender, Ms. **Nayyab Ali** by a police officer, and the subsequent threats she is facing.

Ms. Nayyab Ali is a transgender woman human rights defender. She is co-Chair of the Pakistan Alliance for Ending Violence Against Women and Girls and manages the Khawaja Sira Community Centre in Okara, which provides vocational training, life skills education and driving classes for the transgender community. She has been leading advocacy for the approval of Pakistan's National Transgender Rights Protection Policy and has been a vocal critic of physical attacks on transgender persons and rights defenders in the country. She is also working as a Victim Support Officer and acts as the head of the Transgender Protection Unit of Islamabad police at the Police Facilitation Centre, F-6.

Ms. Ali has been the subject of one previous communication, PAK 1/2021 sent to your Excellency's Government on 12 January 2021. We regret that no reply has been received and request that, in responding to the allegations contained in this letter, your Excellency's Government also address the allegations in the communication from 2021.

According to the information received:

On 24 June 2022, at 1:30 am, Ms. Nayyab Ali received a phone call from a transgender woman who had been physically assaulted and robbed in the neighbourhood of Markaz, Islamabad. Ms. Ali travelled to the scene of the incident, called police officers and accompanied the woman to Ramna police station to formally report the incident.

While at the police station, one officer pointed gestured towards Ms. Ali and the woman she was accompanying and referred to them using discriminatory language. Ms. Ali introduced herself and asked the police officer not to use derogatory language. The officer reportedly became aggressive, pointed his gun at Ms. Ali, unlocked the bolt and using further discriminatory language, told her if she spoke another word she would be "shot like a dog".

The other police officers at the police station did not immediately intervene but shortly thereafter took the officer aside. Shortly after leaving, the same officer came back, and continued swearing at Ms. Ali. The two transgender women were not allowed to leave the police station despite multiple requests to do so.

When the local transgender community found out that the women were being held there, they began protesting outside the police station. When the Station House Officer arrived, he reportedly further threatened Ms. Ali. She was not allowed to leave the police station until 6 a.m., over four hours after arriving there.

On 25 June 2022, Ms. Ali was called in for a meeting with the Deputy Inspector General of Police, who reportedly pressured her to not register the case and instead allow for an internal institutional investigation, which she refused. During the meeting, the Deputy Inspector General also reportedly denied her request for security protection, despite this being promised the day previous at the police station by the Assistant Superintendent of Police.

On 25 June 2022, a First Information Report (FIR) was registered against a constable at Ramna police station under section 506(ii) of the Pakistan Penal Code for “criminal intimidation” and the constable has been detained. There have reportedly been no proceedings against the other officers present at the Ramna police station. A date for the trial has yet to be announced.

On 1 July 2022, the National Commission for Human Rights Pakistan submitted a request for action and protection on behalf of Ms. Nayyab Ali to the Inspector General of Police in Islamabad. The Inspector General had until 18 July 2022 to respond with a comprehensive report.

According to the information received, online threats against Ms. Ali and other members of the transgender community have increased since the incident occurred. While in the wake of the attack there has been some public support voiced by people close to the Government for the rights of the transgender community in Pakistan, one Government appointed individual posted a screenshot of the FIR lodged by Ms. Ali to Twitter. The screenshot contained Ms. Ali’s phone number, address and ID card number, and has been re-shared by the Islamabad police Twitter account. This has reportedly led to more direct and severe transphobic threats against Ms. Ali, from members of society and reportedly from unidentified members of the police force.

Without wishing to prejudge the accuracy of the information received, we wish to express our deep concern regarding the situation of risk in which Ms. Nayyab Ali finds herself. While we note efforts by your Excellency’s Government to take swift action to hold the perpetrator to account, we are concerned by the lack of protection afforded to Ms. Ali who continues to receive threats from unidentified individuals, including suspected members of the police force. We are also concerned that an unredacted copy of the FIR lodged by Ms. Ali was posted online, containing personal information including her mobile phone number and address. We fear that the publication of Ms. Ali’s personal information may be a breach of Ms. Ali’s right to privacy and may have now put her in a situation of even further risk.

In connection to the above-alleged facts and our related 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 in relation to the above-mentioned allegations.
2. Please provide information on any protection measures given to Ms. Ali. If no protection has been provided, please explain why.
3. Please provide an update on the status of the investigation into the police constable responsible for the violent intimidation of Ms. Nayyab, as well as any investigation opened into the conduct of other officers present who may have contributed to or prevented the de-escalation of the situation.
4. Please provide information on whether an investigation has been conducted regarding the publication of Ms. Ali's personal information on social media.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Victor Madrigal-Borloz  
Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

## **Annex**

### **Reference to international human rights law**

The principle of non-discrimination is reaffirmed in all human rights treaties, including article 2, paragraph 2 of the International Covenant on Economic, Social and Cultural Rights, ratified by Pakistan on 17 April 2008. The principle is also provided for in article 2, paragraph 1 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Pakistan on 23 June 2010. The jurisprudence, general comments and concluding observations of United Nations treaty bodies have consistently held that gender identity is a prohibited ground of discrimination under international law. Article 2 of the ICCPR, in its third paragraph, also places an obligation upon State parties to ensure an effective remedy for any persons whose rights or freedoms as recognized in the Covenant are violated.

Concerning the International Covenant on Civil and Political Rights (ICCPR), we would also like to draw the specific attention of your Excellency's Government to its article 9, which enshrines the right to security of person enumerated in the UDHR. The scope of this article was elaborated by the Human Rights Committee in its General Comment No. 35. Therein, the Committee reinforced that article 9 guarantees the security of persons, which concerns their bodily and mental integrity, for everyone, including transgender persons.<sup>1</sup> The Committee further stated that States must take retrospective measures in response to violations of the right to personal security, including the enforcement of criminal laws, and respond appropriately to patterns of violence such as violence based on gender identity (CCPR/C/GC/35 para 3).

In connection to this, we would like to underline that the Human Rights Council has repeatedly expressed concern as to acts of violence and discrimination against individuals on the basis of their gender identity (see A/HRC/RES/17/19, A/HRC/RES/27/32, A/HRC/RES/32/2, and A/HRC/RES/40/18). On the basis of international human rights norms and standards and the work of the United Nations human rights treaty bodies and special procedures, the United Nations High Commissioner for Human Rights has recommended that States, inter alia, prohibit discrimination and protect individuals from violence and discrimination on the basis of gender identity; prohibit incitement of hatred and violence on the ground of gender identity; and hold to account those responsible for related hate speech (A/HRC/29/23, A/HRC/19/41).

We further refer to article 6 of the ICCPR, which enshrines the right to life and security of the person and to Human Rights Committee General Comment 36, which highlights that States parties must ensure the right to life and exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State. The obligation of States parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life. States parties may be in violation of article 6 even if such threats and situations do not result in loss of life.

We would like to reiterate to our Excellency's Government its obligations under the International Convention on the Elimination of Discrimination against Women (CEDAW) through its accession in 1996, in particular Article 7 which provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to

participate in non- governmental organizations and associations concerned with the public and political life of the country.

As stressed by the Working Group on discrimination against women and girls in one of its reports to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

The Human Rights Council, in its resolutions 17/19, 27/32, 32/2 and 41/18, expressed grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity.

The former United Nations High Commissioner for Human Rights echoed this concern and emphasized that States have an obligation to ensure equal protection before the law, freedom from discrimination, to prohibit and prevent discrimination in private and public spheres and to diminish conditions and attitudes that cause or perpetuate such discrimination (A/HRC/29/23, para 16). He further stated that to this end, States should enact comprehensive anti-discrimination legislation that includes sexual orientation and gender identity among protected grounds, that States should review and repeal discriminatory laws and address discrimination against LGBT and intersex ("LGBTI") persons, including in the enjoyment of the rights to health, education, work, water, adequate housing and social security (Ibid., paras. 16 and 79 (c), A/HRC/19/41, para. 84 (e))

Finally, we would like to recall your Excellency's Government 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, otherwise known as the Declaration on human rights defenders. In particular, we would like to draw attention to articles 1, 9 and 12(2) of the Declaration, which state that everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms; that everyone has the right to benefit from an effective remedy in the event of the violation of this or other rights; and that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone against any violence, threats, retaliation, discrimination resulting from their exercise of the rights referred to in the Declaration.