

# Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations*  
Promoting human rights by protecting those who defend them

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Wednesday, October 11, 2017

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Dear President, Prime Minister and Chief Minister,

**Re: Assassination of Bilal Anwar Kasi and Sandeman Civil Hospital Quetta bombing:  
Need for investigations and remedies**

Lawyers' Rights Watch Canada (LRWC) is a committee of lawyers and other human rights defenders who promote human rights and the rule of law internationally through advocacy, legal research and education. LRWC also campaigns for lawyers and other human rights defenders in danger because of their advocacy. LRWC has Special Consultative status with the Economic and Social Council of the United Nations.

LRWC has received no response to our letter dated 9<sup>th</sup> December 2016 regarding Pakistan's duty to investigate and remedy murders of Bilal Anwar Kasi and all those who were killed in the 8 August 2016 bombing attack at Sandeman Civil Hospital in Quetta. According to reports, very little progress has been made in the investigation and minimum effort has been made to implement important recommendations by the Quetta Inquiry Commission conducted by Justice Qazi Faez Isa, in the 13 December 2016 report. Therefore, LRWC writes again to call on the Government of Pakistan to investigate and remedy the murders of Bilal Anwar Kasi, a prominent

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lawyer and President of the Balochistan High Court Bar Association and each of the estimated 78 others killed in the bombing, the majority of whom were lawyers. The attack decimated the legal profession in Quetta and left a devastating and long-term legacy of fear for lawyers and other residents. Of the 280 practicing lawyers in Quetta 56 were killed in the attack, including senior members managing 5,000 cases which accounts for more than half of the total case loads<sup>1</sup>. In addition 92 were injured and others responded by leaving the legal profession or moving away. As stated by Abdullah Kakar, former Vice President of the Supreme Court Bar Association, “The security situation has forced at least 15 lawyers to escape town and around 300 junior lawyers leave the profession completely; all lawyers want to leave Quetta, but they can’t due to financial limitations and lack of appropriate opportunities”.<sup>2</sup> The Government of Pakistan must give priority to ensuring the identification and punishment of the perpetrators through effective investigation, competent prosecutions and fair trials. In consultation with the legal profession and security experts, the Government of Pakistan must put in place measures to prevent such attacks and to ensure that lawyers are free to carry out their professional duties in safety and without fear of reprisals or attacks.

## **Background:**

Bilal Anwar Kasi, prominent lawyer and President of the Balochistan High Court Bar Association was shot and killed by two gunmen while enroute to his office on the morning of 8 August 2016. On hearing news of his death, his colleagues gathered at Sandeman Civil Hospital in Quetta where his body had been taken when a suicide bomber blew himself up killing or injuring those gathered in the area. The Quetta Inquiry Commission Report<sup>3</sup> identified numerous flaws and failures by the government investigators, such as the 21 October 2016 meeting between Pakistan’s former Interior Minister Chaudhry Nisar Khan and Maulana Mohammad Ahmed Ludhianvi, the head of three banned organizations (Sipah-i-Sahaba Pakistan, Millat-i-Islamia and Ahle Sunnat Wal Jamaat). The Report cautioned that the Anti-Terrorism Act (ATA) applies to everyone including government officials, who should not be “cavorting with proclaimed members of banned organisations.” The Commission’s Report also criticized the media stating ” the media sometimes glorify terrorists while reporting terrorism cases and that journalists made no attempt to verify news before circulating and simply print what the terrorist dictated”. The 110 page report “criticized the government and state apparatus in its monumental failures to combat terrorism and perform basic protocol” It also offered numerous important recommendations that have yet to be implemented.

The Home Ministry has released conflicting statements about the suspected perpetrators. At an official press conference on 6 December 2016, Balochistan Home Minister Sarfraz Bugti Home Minister identified Jahangir Bandini as the “mastermind” and stated, “Bilal Kasi was shot dead by Jahangir Badini early on August 8. He, after killing Kasi, sent a suicide bomber to Civil Hospital Quetta to target lawyers who were present there to protest and mourn the death of their leader,”<sup>4</sup> The Minister announced that on 5 December, police and security forces had killed

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<sup>1</sup> Hizbulah Khan, *Terror attack on Quetta lawyers throws city into judicial crisis*, The Express Tribune, 28 March 2017. <https://tribune.com.pk/story/1367626/terror-attack-quettas-lawyers-throws-city-judicial-crisis/>

<sup>2</sup> Ibid.

<sup>3</sup> *Quetta Inquiry Commission Report*, 15 December 2016, online at <http://www.supremecourt.gov.pk/web/page.asp?id=2339>

<sup>4</sup> Sharif Khan, *Quetta hospital attack mastermind killed*, The Nation, 6 December 2016. <http://nation.com.pk/national/06-Dec-2016/quetta-hospital-attack-mastermind-killed>

Jahangir Badini and four of his accomplices during a raid of a compound in Haramzai area of district Pishin. At a press conference on 24 May 2017 the Home Minister then announced<sup>5</sup> the arrest of Saeed Badini who was identified as the mastermind behind the 8 August 2016 assassination of Mr. Kasi and Quetta Civil Hospital attack. Mr. Bugti stated, “Saeed told the interrogators that first he attacked Advocate Bilal Anwar Kasi, president of the Balochistan Bar Association, pumping seven bullets in his body. But before attacking Mr. Kasi, he had prepared one of his aides, Ahmed Ali, to carry out a suicide bombing”.<sup>6</sup> These conflicting announcements leave doubt about the identity of the perpetrator of both the assassination and the bombing and intolerable uncertainty about the measures needed to protect lawyers and others from further attacks.

### **Pakistan's International Law Obligations**<sup>7</sup>

The murder of Bilal Anwar Kasi and the killing of an estimated 78 people at the Sandeman Civil Hospital, triggered Pakistan's international legal obligations to ensure timely, independent and effective investigations, followed by prosecutions and trials of the suspects and punishment of perpetrators in accordance with law.

As a member of the United Nations (UN), Pakistan has agreed to respect the rights to life guaranteed by the Universal Declaration of Human Rights (UDHR). As a party to the International Covenant on Civil and Political Rights (ICCPR) Pakistan has accepted the twin legal obligations to protect and ensure the right to life of all persons within its territory and to take effective measures to prevent, punish and remedy violations.

The ICCPR imposes on Pakistan and other States Parties, the duty to investigate violations of the right to life as an integral part of the duty to protect the right to life guaranteed by Article 6.1. The duty to conduct effective investigations that result in the identification and punishment of those responsible for violations is a key component of Pakistan's duty to protect the right to life. The duty to conduct effective investigations that result in the identification and punishment of those responsible for violations is a necessary part of the State duty to protect the right to life. Failure to uphold this duty might require a State to appoint an independent inquiry of investigation. These twin duties of protection and effective remedy are affirmed by the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders)<sup>8</sup>, the Basic Principles on the Role of Lawyers (Basic Principles),<sup>9</sup> and the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.<sup>10</sup>

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<sup>5</sup> Saleem Shahid, *Mastermind of three suicide attacks arrested*, Dawn, 24 May 2017.

<https://www.dawn.com/news/1335072>

<sup>6</sup> Ibid.

<sup>7</sup> The references in this section are taken from various LRWC publications on the Duty to Investigate that can be accessed here <http://www.lrwc.org/library/know-your-rights-index/duty-to-investigate-and-remedy/>

<sup>8</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. Adopted at the 85th plenary meeting 9 December 1998 and adopted by the U.N. General Assembly 8 March 1999 A/RES/53/144. Article 9.5 specifically requires States to “conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred...”

<sup>9</sup> Adopted by the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana 27 August to 7 September 1990. U.N. Doc. A/CONF. 144/28/Rev. 1 at 188. (1990)

<sup>10</sup> Adopted on 24 May 1989 by the Economic and Social Council Resolution 1989/65.

The UN Human Rights Committee (HR Committee) has affirmed that the ICCPR Article 2.1 creates binding obligations on States to exercise due diligence to prevent, punish, investigate and redress violations of protected rights committed by State and/or private actors. Failure to take such measures can constitute violations by the State itself of the ICCPR. The HR Committee stated in General Comment 31:

There may be circumstances in which a failure to ensure Covenant rights as required by Article 2 would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.<sup>11</sup>

The HR Committee has noted that impunity may be “an important contributing element in the recurrence of . . . violations,” and has emphasized that the State obligation to provide an effective remedy pursuant to Article 2(3) of the ICCPR may in appropriate cases require guarantees of non-repetition and changes in relevant laws and practices.<sup>12</sup> The UN has developed detailed standards for investigation of unlawful killing, including the:

- UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (UN Investigation Principles);<sup>13</sup> and
- UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (Minnesota Protocol).<sup>14</sup>

The UN Investigation Principles, adopted by UN ECOSOC and welcomed by the UN General Assembly in 1989, reflect a global consensus on the standards for investigations that include:

- thorough, prompt, and impartial investigation of all suspected cases of extra-legal, arbitrary, and summary executions;
- an independent commission of inquiry for those cases in which the established investigative procedures are ineffective because of lack of expertise or impartiality, and for cases in which there are complaints from the family of the victim about these inadequacies or other substantial reasons;
- protection from violence or intimidation for complainants, witnesses, families, and investigators;

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<sup>11</sup> Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 8

<sup>12</sup>Ibid, paras 16, 18, available at: <http://www.refworld.org/docid/478b26ae2.html>.

<sup>13</sup> Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989, welcomed by the General Assembly in Resolution A/RES/44/159, 15 December 1989, see <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ArbitraryAndSummaryExecutions.aspx>.

<sup>14</sup> UN Department of Political Affairs, UN Manual on the Effective Prevention and Investigation of Extra Legal, Arbitrary and Summary Executions, U.N. DOC. E/ST/CSDHA/12 (1991) (Minnesota Protocol). A revision of the Minnesota Protocol is currently underway in consultation with States, academia, civil society, and other interested parties. See UN Office of the High Commissioner for Human Rights, Revision of the Minnesota Protocol at:<http://www.ohchr.org/EN/Issues/Executions/Pages/RevisionoftheUNManualPreventionExtraLegalArbitrary.aspx>. See the draft revision at:

<http://www.ohchr.org/Documents/Issues/Executions/UNManual2015/A.HRC.32.39.Add.4.docx>.

- removal from power or control over complainants, witnesses, families or investigators of anyone potentially implicated in extra-legal, summary or arbitrary executions;
- access by families and their legal representatives to any hearing and to all relevant information, and the right to present other evidence;
- a detailed written report on the methods and findings of the investigation, made public within a reasonable time;
- government action to bring to justice persons identified by the investigation as having taken part in extra-legal, arbitrary and summary executions, through prosecutions and trials;
- responsibility of superiors, officers or other public officials for acts committed under their authority if they had a reasonable opportunity to prevent such acts; and
- fair and effective compensation for the families and dependants of victims of extra-legal, arbitrary and summary executions within a reasonable period of time.

The Minnesota Protocol confirms that the purpose of an inquiry or investigation, as set out Subsection III (B), paragraph 9 is to discover the truth about the events leading to the suspicious death of a victim. To fulfil that purpose, those conducting the inquiry shall, at a minimum, seek to:

- (a) identify the victim;
- (b) recover and preserve evidentiary material related to the death to aid in any potential prosecution of those responsible;
- (c) identify possible witnesses and obtain statements from them concerning the death;
- (d) determine the cause, manner, location and time of death, as well as any pattern or practice that may have brought about the death;
- (e) distinguish between natural death, accidental death, suicide and homicide;
- (f) identify and apprehend the person(s) involved in the death;
- (g) bring the suspected perpetrator(s) before a competent court established by law.

The Basic Principle on the Roles of Lawyers (welcomed in a consensus resolution of the UN General Assembly in 1990) requires all States to guarantee the right of equal access to justice by ensuring the independence and safety of lawyers and protecting them from interference by State authorities and other actors. Article 12 (2) requires all States to protect lawyers in the practice of their profession. Article 16 states that governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference. Article 17 states that where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by authorities.

The *Constitution of the Islamic Republic of Pakistan, 1973, As Amended by the Constitution Twentieth Amendment Act, 2012*, Article 9 provides, “No person shall be deprived of life or liberty save in accordance with law.”

### **Conclusion:**

The murder of Bilal Anwar Kasi and each of the people who died as a result of the 8 August 2016 Sandeman Civil Hospital Quetta bomb attack triggered Pakistan’s international legal obligations to ensure that timely, independent and effective investigations followed by prosecution and fair trials of the suspects identified by the investigation. Pakistan is obliged by international law to respect and ensure the right to life and to prevent and punish violations.

Through proper investigation, prosecution, trials and punishment the Pakistani Government must ensure that justice is served for all those killed and injured in the horrific attack that took place 8 August 2016.

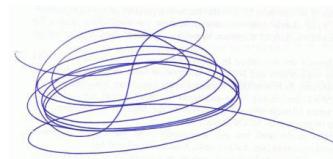
### **Recommendations:**

LRWC calls on the Government of Pakistan to:

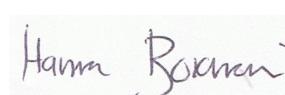
1. Ensure thorough, competent, impartial and effective investigation of the murders of Bilal Anwar Kasi and each of those killed in the 8 August 2016 Sandeman Civil Hospital Quetta bombing;
2. Immediately implement the recommendations made by the Quetta Inquiry Commission Report;
3. Ensure prosecution and trials of the suspected perpetrator(s) identified by the investigation;
4. Comply with all relevant provisions of the UDHR, ICCPR, Declaration of Human Rights Defenders, Basic Principles, UN Investigation Principles and the Minnesota Protocol;
5. Provide immediate protection to lawyers and other human rights defenders who may be in danger for their work by creating in cooperation with the Human Rights Commission of Pakistan, Bar Associations and civil society a “First Response Service”;
6. Provide access by families and their legal representatives to all relevant information about the investigations to date;
7. Provide a detailed written report on the methods and findings of the investigations including the investigations that resulted in identification in December 2016 of Jahangir Bandini and then in May 2017, of Saeed Bandini as the mastermind of the assassination and bombing;
8. Plan and implement concrete measures to prevent such attacks in the future in consultation with the legal community of Pakistan and security experts.

Please advise LRWC of the actions that the Government of Pakistan is taking to address these recommendations. Thank you.

Sincerely,



Gail Davidson, Executive Director, LRWC



Hanna Bokhari, LRWC Pakistan Monitor

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**Assassination of Bilal Anwar Kasi and Sandeman Civil Hospital Quetta bombing--  
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