

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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Tuesday, April 24, 2018

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Dear President, Prime Minister and Chief Minister,

RE: Murder of Lawyer Zainullah Khan, Pakistan's failure to protect lawyers and need to end culture of impunity.

Lawyers' Rights Watch Canada (LRWC) is a committee of lawyers and other human rights defenders who promote international human rights, the rule of law, and the integrity of legal systems through advocacy, education and legal research. LRWC is a volunteer-run NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

LRWC condemns the murder of lawyer Zainullah Khan that took place on 30 March 2018 in Swabi, in the province of Khyber Pakhtunkhwa Pakistan. According to reports Zainullah Khan was shot and killed when he was returning home via Jehangira Road when unidentified attackers in a vehicle open fired at Mr. Khan killing him on the spot while the attackers escaped. Lawyers have called on the provincial government to provide safety to lawyers, Mr. Khan's murder is one of many cases in which lawyers have been targeted and killed in the area.

LRWC is alarmed by the continued targeted assassinations of lawyers in Pakistan and the impunity enjoyed by perpetrators as a result of Government inaction.

Murder of Lawyer Zainullah Khan, Pakistan's failure to protect lawyers and need to end culture of impunity

Six lawyers killed in Pakistan in the past 11 months:

7 February 2018 Pervez Akhtar Lahore
5 February 2018 Muhammad Idress South Waziristan
9 October 2017 Rauf Ahmad Thaur Sheikhpura
16 May 2017 Alia Shenzadi Sheikhpura
30 March 2017 Saleem Latif Nakana Sahib
4 March 2017 Muhammad Jan Gigyani Shabqadar

54 lawyers killed in Quetta on 8 August 2016:

Bilal Anwar Kasi	Muhammad Saleem Butt	Syed Ziauddin
Baz Muhammad Kakar	Bashir Ahmed Zehri	Ghulam Haider Kakar
Chakar Rind	Syed Ghani Jan Agha	Aimal Khan Watanyar
Qahir Shah	Naseer Langove	Abdullah Achakzai
Adnan Kasi	Muhibullah	Muhammad Ali Satakzai
Dawood Kasi	Nooruddin Rakhshani	Sarfraz Sheikh
Gul Zareen Kasi	Manzar Siddique	Abdul Nasir Kakar
Askar Khan Achakzai	Noorullah Kakar	Waqas Khan Jadoon
Sangat Jamaldini	Munir Ahmed Mengal	Taimoor Shah Kakar
Jamal Abdul Naseer	Naqeebullah Tareen	Arthur Victor
Qazi Bashir	Muhammad Ayub Sadozai	Sher Gul Davi
Ghulam Muhammad	Attaullah Kakar	Feroz Khan
Jamil ur Rehman Qazi	Hafeezullah Mengal	Sabir Ali
Malik Wazeer Kasi	Hafeezullah Khan	Ghulam Farooq Badini
Qaiser Sherani Khan	Mandokhail	Amanullah Langove
Muhammad Imran Sheikh	Ghani Mashwani	Faizullah Khan Sargarah
Rehmat Kharotai	Muhammad Ashraf Sulehri	Ghousuddin
Mir Mehmood Ahmed	Bashir Ahmed Kakar	Abdul Rashid
Lehri	Ainuddin Nasar	

To the knowledge of LRWC, none of these killing have resulted in identification and punishment of perpetrators through effective investigations, prosecutions and trials as required by the *International Covenant on Civil and Political Rights* (ICCPR) which Pakistan ratified on 23 June 2010.

As a member of the United Nations (UN), a State Party to the ICCPR and as a member of the UN Human Rights Council (HRC) to which Pakistan was elected to 16 October 2017, the essential role that lawyers play in facilitating access to justice, guaranteeing respect for protected rights, combating impunity and ensuring the rule of law, is well established in international human rights law, and the States' obligations flow from this principle.¹ Pakistan is legally

¹As an illustration, see: European Parliament, Resolution on the legal professions and the general interest in the functioning of legal systems, 23 March 2006, P6_TA(2006) 0108, at para 1, cited in ICJ, *Legal Commentary to the ICJ Geneva Declaration Upholding the rule of Law and the Role of Judges and Lawyers in Times of Crisis*, Human Rights and Rule of Law Series no 3, p. 113; <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2011/05/ICJgenevadeclaration-publication-2011.pdf>. That body has underscored this foundational principle, recognizing the crucial role of an independent legal profession in guaranteeing respect for fundamental rights in a democratic society.

obligated to take all measures necessary to ensure both accountability for perpetrators and effective protection for lawyers. The Pakistan authorities are required to investigate these killings and threats with due diligence and make all possible efforts in order to assure an effective investigation so as to bring to justice the material and intellectual authors of these crimes.

Pakistan is failing to fulfill its obligations to take reasonable steps to prevent summary assassinations of lawyer by failing to:

- (a) adopt effective measures to protect the right to life of lawyers; and,
- (b) conduct the investigations, prosecutions and trials necessary to ensure accountability for those responsible for violations and threatened violations, of the right to life of lawyers.

As a State party to the ICCPR, Pakistan has a legal duty to ensure the right to life of all persons and take measures to effectively prevent and punish violations. The duty to specifically protect the lives and the personal and professional safety of lawyers is integral to Pakistan's duty under the ICCPR to ensure that all persons have effective access to legal services and to justice.

The UN *Basic Principles on the Role of Lawyers*,² which elaborate on the duty of states to effectively protect the safety of lawyers, directs states to ensure that, "where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities".³

The *Geneva Declaration on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis*⁴ establishes in Principle 7 "enhanced responsibilities" for states to safeguard the security of lawyers and to provide: "all necessary measures to ensure the protection by the competent authorities of lawyers against any violence, threats, retaliation... as a consequence of their professional functions or legitimate exercises of human rights".⁵

² OHCHR, *Basic Principles on the Role of Lawyers*, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1990, U.N. Doc. A/CONF.144/28/Rev.1, available at: <http://www2.ohchr.org/english/law/lawyers.htm> [*Basic Principles*].

³ *Ibid*, at Principle 17.

⁴ The International Commission of Jurists, *Geneva Declaration on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis* Geneva Declaration is an instrument adopted by the World Congress of that influential international body of jurists which is dedicated to ensuring respect for international human rights standards through the law. Information about the International Commission of Jurists available at: <http://www.icj.org/>.

⁵ The full script of Principle 7 of the *Geneva Declaration* reads: *Since the protection of human rights may be precarious in times of crisis, lawyers should assume enhanced responsibilities both in protecting the rights of their clients and in promoting the cause of justice and the defence of human rights. All branches of government must take all necessary measures to ensure the protection by the competent authorities of lawyers against any violence, threats, retaliation, de facto or de jure discrimination, pressure or any other arbitrary action as a consequence of their professional functions or legitimate exercise of human rights. In particular, lawyers must not be identified with their clients or clients' causes as a result of discharging their functions. The authorities must desist from and protect against all such adverse actions. Lawyers must never be subjected to criminal or civil sanctions or procedures which are abusive or discriminatory or which would impair their professional functions, including as a consequence of their association with disfavoured or unpopular causes or clients.* See also the UN Commission on Human Rights, *Independence and Impartiality of the judiciary, jurors and assessors and the independence of lawyers*, 19 April 2004, UN Doc. E/CN.4/RES/2004/33, which established the requirement that states must adopt effective

Murder of Lawyer Zainullah Khan, Pakistan's failure to protect lawyers and need to end culture of impunity

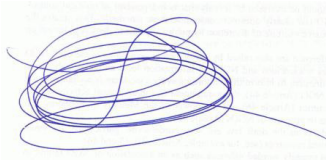
Pakistan has breached these international standards and affirmative duties and its continuing failure to take even elementary steps to protect the lives of lawyers and investigate and punish violations results in impunity for perpetrators. Confirming that impunity may be “an important contributing element in the recurrence of ... violations,”⁶ the UN Human Rights Committee emphasizes that State obligations to provide an effective remedy under the ICCPR Article 2(3), may in appropriate cases require guarantees of non-repetition and changes in relevant laws and practices.⁷ The murder of lawyers in Pakistan is such a case.

Please advise LRWC of the actions, including changes to law and practices that the Government of Pakistan is taking to comply with its international law obligations to:


1. remedy the murder of **Zainullah Khan** in accordance with the requirements of the ICCPR and other international instruments governing the investigation and remediation of unlawful killings; and,
2. conduct thorough investigations of the **60 unlawful killings of lawyers** referred to, and ensure that the perpetrators are identified through lawful prosecutions and trials and held accountable in accordance with Pakistan’s domestic law and international law obligations; and,
3. create and implement effective measures to protect against and prevent, the unlawful killings of lawyers in Pakistan. .

We look forward to your reply confirming the actions planned and taken in response to this crisis of lethal attacks on lawyers for which remediation, prevention and punishment have failed. .

Sincerely,



Gail Davidson, Executive Director, LRWC



Hanna Bokhari, LRWC Pakistan Monitor

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measures, including legislation and enforcement to enable lawyers to perform their duties without harassment or intimidation.

⁶ HR 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, paras 16, 18, available at: <http://www.refworld.org/docid/478b26ae2.html>.

⁷ HR 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, paras 16, 18, available at: <http://www.refworld.org/docid/478b26ae2.html>.

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