

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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Mr. Arif Alvi
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Mr. Imran Khan
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Dear President Alvi and Prime Minister Khan,
RE: Murder of lawyer Saeed Khan

Lawyers' Rights Watch Canada (LRWC)¹ condemns in the strongest terms the murder of lawyer Saeed Khan and is alarmed by the continued targeted assassinations of lawyers in Pakistan and the impunity enjoyed by perpetrators as a result of Government inaction. LRWC calls on the Government of the Islamic Republic of Pakistan (Pakistan) to comply with its international obligations and to:

- Investigate the tragic extra-judicial killing of Saeed Khan in compliance with the requirements of the UN *Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*² and the UN *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* (Minnesota Protocol).³
- Prosecute the suspect(s) identified by the investigation and punish the perpetrator(s) identified at trial;
- Prevent extra-judicial killings of lawyers through protection services and other necessary measures.

Background

Saeed Khan, an assistant public prosecutor and a member of the Tehsil Bar Association, was killed on 11 October 2019 by unidentified gunmen on motorcycle who opened fire on Mr. Khan as he was exiting his home in Chakdara Khas. LRWC is concerned that the tragic murder of Mr. Khan not become another

¹ LRWC is a committee of lawyers and human rights defenders who promote international human rights, the independence and security of human rights defenders, the integrity of legal systems and the rule of law through advocacy, education and legal research. LRWC has Special Consultative Status with the Economic and Social Council of the United Nations.

² 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>.

³ 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>.

instance when the perpetrator(s) of the extra-judicial killings of a lawyer or lawyers are not identified and held to account through a process of investigation, prosecution and trial required by law.

International Law Obligations of Pakistan

Pakistan is a member of the United Nations (UN) and an elected member of the UN Human Rights Council (HRC) and as such, has agreed to respect the rights to life guaranteed by the *Universal Declaration of Human Rights* (UDHR), the *UN International Covenant on Civil and Political Rights*⁴ (ICCPR) and other instruments. Pakistan has accepted the twin legal obligations imposed by the ICCPR and the UDHR to protect the right to life of all persons within its territory and exercise due diligence to prevent, punish, investigate and redress violations of protected rights committed by State and/or non-state actors. The *Constitution of the Islamic Republic of Pakistan* states in Article 9 that “No person shall be deprived of life or liberty save in accordance with law.” Ensuring effective measures to protect the lives and safety of lawyers is integral to these duties and a necessary component of Pakistan’s duty to ensure that all persons have access to a lawyer to defend rights.

In addition to guaranteeing that no one shall be arbitrarily deprived of life, the ICCPR (Articles 1, 2 and 3) requires Pakistan as a State Party to take effective measures, carried out by competent authorities, to remedy violations. In the case of an extra-judicial killing, Pakistan must ensure an investigation capable of identifying suspects and collecting and preserving the evidence necessary to a prosecution and trial. Failure to take such measure can constitute violations by the State of protected rights.⁵ Where the investigations reveal violations of protected rights, such as the right to life and to humane treatment, states must ensure that those responsible are brought to justice. The UN Human Rights Committee (HR Committee) has confirmed that, “[a]s with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the [ICCPR]”.⁶

The extra-judicial killing of Saeed Kahn signals a dangerous continuation of Pakistan’s past failure to fulfill its legal obligations to take reasonable steps to prevent and punish the extra-judicial killings of lawyers. A recent report on lawyers in Pakistan noted the “extremely large number of lawyers killed particularly since 2004 [in Pakistan]” and expressed concern that “Pakistani authorities are unable or unwilling to provide effective protection to the legal profession.”⁷

The UN Basic Principles on the Role of Lawyers⁸, which elaborates 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”.⁹ (Emphasis added)

4 UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p 171.

5 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.

6 HR Committee, General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13 26 May 2004, para. 18. See also ACHPR, General Comment No. 3 on the African Charter on Human and Peoples’ Rights: The Right to Life (Article 4)(2015), para. C15.

⁷ *Day of The Endangered Lawyer 2020 Pakistan: A struggle to protect Pakistani lawyers*, International Association of Peoples’ Lawyers and the European Association of Lawyers for Democracy and Human Rights, October 2019.

⁸ 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].

⁹ *Ibid.*, at Principle 17

The *Geneva Declaration on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis*¹⁰ 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”.¹¹

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. The HR Committee confirms that impunity may be “an important contributing element in the recurrence of ... violations,” and 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.¹² The murder of lawyers in Pakistan is such a case.

Conclusion

Pakistan has a legal obligation stemming from domestic and international human rights law to ensure that in every instance of unlawful deprivation of life, timely, independent and effective investigation are carried out, followed by the prosecution and trails of suspects and punishment of perpetrators in accordance with law.

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

1. remedy the murder of Saeed Khan in accordance with the requirements of the ICCPR and other international instruments governing the investigation and remediation of unlawful killings;
2. 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;
3. create and implement effective measures to protect against and prevent, the unlawful killings of lawyers in Pakistan;
4. Plan and take immediate action to implement, in consultation with the Human Rights Commission of Pakistan, Bar Associations, civil society, and security specialists, effective protective measures for all those in the legal community in Pakistan to prevent future attacks and ensure that all lawyers can carry out their work without fear, attacks or reprisal;

10 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/>.

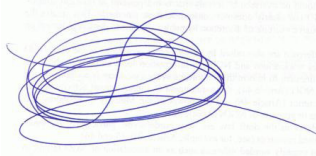
11 The full script of Principle 7 of the Geneva Declaration reads: Since the protection of human rights may be precarious in times of crisis, lawyers should assume enhanced responsibilities both in protecting the rights of their clients and in promoting the cause of justice and the defence of human rights. 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 measures, including legislation and enforcement to enable lawyers to perform their duties without harassment or intimidation.

12 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>.

5. Provide immediate protection for 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. Publicly denounce and condemn all attacks on members of the legal community in Pakistan

We look forward to your reply confirming the actions planned and taken in response to the extra-judicial killing of Saeed Khan and the crisis of lethal attacks on lawyers in Pakistan.

Sincerely,



Gail Davidson, Executive Director, LRWC



Hanna Bokhari, LRWC Pakistan Monitor

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Murder of lawyer Saeed Khan

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