



Written statement submitted by Franciscans International, Dominicans for Justice and Peace, Pax Christi International and Pax Romana for the

**Twelfth Session of the Human Rights Council**

Blasphemy Laws and human rights of religious minorities in Pakistan

Geneva, September 2009

## **HUMAN RIGHTS COUNCIL**

### **Twelfth session**

#### **Agenda item 3**

Joint written statement submitted by Franciscans International, non-governmental organisation in general consultative status; Pax Christi International, Pax Romana, and Dominicans for Justice and Peace, non-governmental organisations in special consultative status.

#### **Blasphemy laws and human rights of religious minorities in Pakistan**

The organizations endorsing this statement would like to draw the attention of the Human Rights Council to the gross and systematic human rights violations due to the existence, application and abuse of the so called blasphemy laws in Pakistan. The recent incidents in Gojra, Korian, Kasur and Gujranwala from June to August 2009 are a sad reminder of what has been going on under the excuse of blasphemy for nearly 25 years. On 1 August, seven Christians including women and children were burnt alive, several dozens injured and around 177 houses were looted and destroyed mainly by fire using special chemicals. These killings and widespread violent attacks happened on unsubstantiated allegations of 'desecration of Quran by the Christians'. The administration repeatedly failed to protect minorities despite prior information and warnings about these attacks.

The statistics collected by local human rights groups show that at least 964 persons have been accused under these laws since 1987. Although religious minorities form only 3 % of the population, nearly half the victims were Ahmadis (340), Christians (119) and Hindus (14).

#### **The blasphemy laws**

Pakistan's Penal Code includes five Sections commonly known as blasphemy laws. Sections 295 B, 295 C, 298 A, B and C, were made part of this Code, between 1980 and 1986, mainly through Presidential Orders by Gen. Zia Ulhaq. These Sections of the Criminal law state to protect the honour of Prophet Mohammad, the Holy Quran, the Companions and Wives of the Prophet while barring Ahmadis from using Islamic terminology and symbols and, 'preaching their faith or posing as Muslims.'

While the punishment for offenses in Sections 298 A, B and C (concerning the insult against Companions and Wives of Prophet Mohammad and imposing restrictions on Ahmadis) is imprisonment for three years and a fine, Section 295-

B carries life imprisonment and Section 295-C (offering insult to Prophet Mohammad) a mandatory capital punishment.

### **Inherent problems**

- The text of the blasphemy law is religion specific and highly discriminatory. The blasphemy laws make no distinction between an intentional deliberate action and an unintended mistake thus leaving its application open to abuse. The formulation also ignores the important exceptions that are part of criminal laws internationally i.e. psychological condition of accused, knowing the consequences of ones actions (a minor, a non-believer and an insane person).
- These laws do not define the crime of 'insult' or the meaning of 'respect' however focuses on the modus operandi of offense; writing, speaking, etc.
- The UN Special Rapporteur on Freedom of Religion or Belief observed<sup>1</sup> that the punishments accompanying blasphemy laws are excessive and disproportionate to the offenses. Some Islamic scholars have also condemned the existence and application of these laws.
- The blasphemy laws provide no inbuilt safety net to stops its abuse.
- Pakistan's blasphemy laws are inherently arbitrary and restrict freedom of speech and other freedoms guaranteed by international human rights laws<sup>2</sup>.

### **Consequences of blasphemy laws**

Since 1986 blasphemy laws have been frequently used to intimidate and persecute religious minorities and to settle personal vendetta. Hundreds of innocent people have been imprisoned, forced to leave the country or killed by religious fundamentalists.

The very existence of the present blasphemy laws encourages hostility towards minorities and has proven to be a license for abuse of law and religion. The instigators motivated by religious bigotry, personal prejudice, selfish gain or professional rivalry have used allegations for their convenience. In many cases complaints are filed at the insistence of a number of local clerics or outfits inciting hate against minorities. Thus these laws instil fear and sense of insecurity for liberal Muslims, Human Rights Defenders and religious minorities.

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<sup>1</sup> E/CN.4/1996/95.Add.1,Para 82

<sup>2</sup> Article 19, ICCPR

Once allegations surface these laws become a tool for multiple human rights violations. Ill treatment in custody and torture are commonplace and trials take years, resulting in the accused languishing in jails pending trial or appeal. Judges are reluctant to try these cases and it is difficult to get a lawyer. In 1996, Justice Arif Hussain Bhatti, a Lahore High Court Judge who had acquitted a person accused of blasphemy was killed in his office as the killer thought the judge had committed blasphemy by arriving at this decision.

Blasphemy laws undermine the notion of freedom of thought, conscience and religion, and become moreover, a catalyst for a culture of intolerance. The state machinery becomes a party to this scheme of religious intolerance and the society loses an opportunity for a genuine interfaith dialogue and openness.

### **Universal human rights - UN bodies / Special procedures**

a) Blasphemy laws in Pakistan are in conflict with the Universal Declaration of Human Rights, in particular with article 7 (equality before the law and protection against discrimination, article 19 (freedom of opinion and expression) and article 18 (freedom of thought, conscience, and religion).

b) Blasphemy laws in Pakistan are also in violation of Articles 2, 3 and 4 of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion and Belief, which categorically prohibits religious discrimination.

c) Blasphemy laws also violate articles 2 and 4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities that seek to protect fundamental freedoms 'without any form of discrimination' and the right to freely 'profess and practise their own religion'.

d) The UN Special Rapporteur on Freedom of Religion or Belief after his only visit to Pakistan in 1995 made the following recommendation:<sup>3</sup>

'...Blasphemy as an offense against belief may be subject to special legislation. However, such legislation should not be discriminatory and should not give rise to abuse. Nor should it be so vague to jeopardize human rights especially those of minorities.'

In fact Government of Pakistan assured the Special Rapporteur in 1995 that the law would be changed within 8 to 12 months.<sup>4</sup>

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<sup>3</sup> E/CN.4/1996/95.Add.1, Para 82

<sup>4</sup> E/CN.4/1996/95.Add.1, Para 80

e) After reviewing a State party report in 2009 the CERD Committee 'expressed its concern about reported infringements of the right to freedom of religion and the risk that blasphemy laws may be used in a discriminatory manner against religious minority groups, who may also be members of ethnic minorities' and 'recalled state party's obligations on freedom of thought, conscience and religion'<sup>5</sup>.

**We urge the Human Rights Council to call on the Government of Pakistan to:**

1. Remove all provisions of discriminations on the basis of religion that is part of the Constitution, laws and policies. In practical terms, the parliament should pass a resolution stating that any law or policy which is contrary to Article 25 of the Constitution be void and abolished except for any affirmative action to promote social justice according to Article 37 of the Constitution. Moreover, while making amendments to the Constitution a definition for discrimination should be included and a mechanism to monitor discrimination should be set up.
2. Take steps to repeal Blasphemy laws (aforementioned Sections of the Pakistan Criminal Code) as procedural amendments have delivered no results.
3. Investigations into the recent incident should be completed quickly and those guilty must be brought to justice. Reparations for victims of violent attacks must be promptly made.
4. Prosecute and bring to justice those who brought frivolous or malicious complaints; strengthen legal and administrative procedures to stop any abuse of the law and pressure from extremist groups.
5. Ban and printed material, books and audio-visual materials containing hate speech. A regulatory and monitoring body should be set up to monitor the implementation of laws meant to stop hate speech.
6. Invite the UN Special Rapporteur on Freedom of Religion or Belief to assess the situation and see the progress on recommendations made during her predecessor's visit in 1995.
7. Protect political and religious organizations and institutions, judges, lawyers and other Human Rights Defenders who advocate a change in the law.

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<sup>5</sup> CERD\C\PAK\CO\20, Para 19

8. Form a Commission of Inquiry to assess the situation on the situation of minorities in Pakistan. This Commission should be composed by at least two Judges of the High Courts, two representatives of credible human rights civil society organizations and a secretary from the Ministry of Minorities Affairs. This Commission should present within two months its report to the Parliament alongside recommendations for long term remedies.
9. Seriously engage in education policy and curriculum reforms and ensure that religious lessons be only taught as elective subjects. Moreover, the curriculum for school, colleges and universities should be free of materials promoting religious and gender biases. The study and recommendations made by Sustainable Development Policy Institute – Islamabad in this regard be taken into consideration.

**To the International community, United Nations Human Rights Council and Member States:**

10. The Office of the High Commissioner for Human Rights (OHCHR), along with relevant Special Procedures should monitor the situation in Pakistan and offer a response to situation concerning human rights abuses, especially of the religious minorities.

11. Independent Expert on Minority Issues should make a visit to Pakistan, as her mandate includes the implementation of the UN Declaration on the rights of the persons belonging to national or ethnic, religious and linguistic minorities.

12. The Human Rights Council should address this issue in the next HRC Session, persuade the government of Pakistan to stop defying recommendations made by the Council during Universal Periodic Review<sup>6</sup> which included repeal of all discriminatory laws along with blasphemy laws and comply with international obligations on human rights and religious freedoms.

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<sup>6</sup> A/HRC/WG.6/2/L.8, Para 106 (1) (21)