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Written statement* submitted by Jubilee Campaign, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 August 2020]

* Issued as received, in the language(s) of submission only.

Blasphemy Laws as a Tool to Arbitrarily Arrest Religious Minorities and Others in the Islamic Republic of Pakistan

In Pakistan—one of three countries where blasphemy is punishable by death— these laws are widely abused to settle personal scores, incite religious hatred and punish those who question Islam. Due to widespread religious intolerance and bias, members of Pakistan’s religious minority communities are disproportionately accused and punished under the country’s blasphemy laws¹. The circumstances around the arrests render them arbitrary under category II and category III of the arbitrary detention categories as defined by the Working Group on Arbitrary Detention (Working Group).

Category II

The Working Group regards deprivation of liberty as arbitrary amongst others when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by article 18 and 19 of the Universal Declaration of Human Rights (UDHR) and article 18 of the International Covenant on Civil and Political Rights (ICCPR).

Numerous people are being, have been or risk being arbitrarily detained for exercising their fundamental rights and freedoms.

Adnan Prince is an example. While at work, Prince found a book entitled ‘I Asked The Bible Why The Qur’ans Were Set On Fire’, a book written by Maulana Ameer Hamza, leader of the Jamaat-ud-Dawa group. Prince began reading the book and made several notes inside of it. Abdi Mehmood, a Muslim coworker, noticed Prince reading the book and took offense. The next day, Mehmood went to the local police station and accused Prince of marking several pages with abusive words against the Prophet of Islam. Police arrested him on 6 November 2013 and registered a blasphemy case against Prince under Sections 295-A, 295-B, and 295-C of Pakistan’s Penal Code. In 2017, Adnan Prince was released on bail, however, to date, a final decision has not been made in Prince’s case, and he remains accused of committing blasphemy.²

Another case is Junaid Hafeez, who was designated a prisoner of conscience by Amnesty International.³ Police arrested Hafeez on March 13, 2013 in Multan. Hafeez was ‘detained solely for peacefully exercising his right to freedom of expression’.⁴ Junaid Hafeez’s father has attributed his arrest to the Islamist’ opposition to his son’s liberal views, and their desire to get one of their own members an open lecturer position.⁵ In December 2019, Hafeez was convicted and sentenced to death by a court in Multan Central Jail.

In July 2020, Pakistan Tehreek-e-Insaf (PTI) President Zafarwal Tehsil, Qamar Riaz Sulehri, has filed a blasphemy complaint against the ex-minister of foreign affairs of the Pakistan Muslim League, Khawaja Asif, for saying that all religions are equal in the light of the constitution.⁶

These cases show that the blasphemy laws target the right to freedom of thought, conscience and religion as well as the right to freedom of opinion and expression.

Category III

The Working Group regards deprivation of liberty as arbitrary amongst others when the total or partial non-observance of the international norms relating to the right to a fair trial, is of such gravity as to give the deprivation of liberty an arbitrary character.

Principle 6 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that no person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 14.3.g of the ICCPR notes that nobody should be compelled to testify against himself or to confess guilt. Yet we have recorded several cases where this has happened.

¹ www.justice.gov/eoir/page/file/1158851/download.

² The Voiceless Victims of Pakistan’s Blasphemy Laws, William Stark, May 2020, International Christian Concern, page 12.

³ www.amnesty.org/en/latest/news/2019/09/pakistan-authorities-immediately-unconditionally-release-junaid-hafeez/.

⁴ Id.

⁵ www.dw.com/en/junaid-hafeez-why-is-pakistani-scholars-blasphemy-case-receiving-scant-attention/a-50722310.

⁶ nayadaur.tv/2020/07/pti-leader-files-blasphemy-complaint-against-khawaja-asif-for-saying-all-religions-are-equal/.

In July 21, 2013, Police arrested Shagufta and her husband, Shafqat Emmanuel, and charged them with blasphemy under Sections 295-B and 295-C of Pakistan's Penal Code. Gojra City Police tortured Shafqat in front of his wife and children to extract a false confession, Shafqat said he gave the confession because the police threatened to torture his wife if he refused.⁷ The court sentenced them to death on April 4, 2014.⁸

Police arrested Zafar Bhatti on 22 July 2012 who charged him with sending blasphemous text messages. According to Bhatti, police tortured him into confessing to the crime. On May 3, 2017, the Additional District and Session Judge Mohammad Yar Gondal sentenced Bhatti to life in prison under section 295-C of Pakistan's Penal Code.⁹

Police arrested Adnan Prince on November 6, 2013. Prince shared that the police tortured him in an attempt to extract a confession.¹⁰

It has been reported on numerous accounts that those accused of blasphemy face violence from mobs and the police. It has happened recurrently that those accused of blasphemy were tortured while under police investigation in order to force a confession out of them.

Subsequently, article 14.1 of the ICCPR states that 'All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.'

Article 14.2 2. of the ICCPR states that 'Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.'

On March 13, 2013 police arrested visiting lecturer Multan Hafeez at the Bahauddin Zakariya University, on blasphemy charges. The court, in December 2019 sentenced Hafeez to death. Hafeez's own counsel was murdered inside his chambers earlier, prompting Hafeez's family to doubt whether Hafeez would get a fair trial, "Could any judge in such circumstances take the risk of doing justice? Those who could were transferred from the district or brought under pressure by groups of lawyers operating as mafias."¹¹

Amnesty International called the death penalty "a vile and gross miscarriage of justice" and human rights activist I. A. Rehman, the former general secretary of the Human Rights Commission of Pakistan, said: "The verdict is brutal and unjust. He has been in prison for six years for no reason. It is an open fact that trial courts in Pakistan rarely acquit accused in blasphemy cases."¹² Jail officials reportedly feared a mob attack if Hafeez was acquitted, and Hafeez's family said that the court had convicted due to external threats.¹³

In July 2020, a local 19-year-old man named "Faisal"¹⁴ shot dead Tahir Ahmad Naseem, 57, who had been on trial at the Peshawar Judicial Complex Peshawar on charges of blasphemy for claiming to be a prophet.

In the case of Asia Bibi, the Supreme Court's landmark decision, to free a blasphemy law victim, criticized the lower court judges and prosecutors for pursuing falsely accused blasphemy cases that did not meet the requirements of Pakistan's evidentiary rules.¹⁵

It could be concluded that when blasphemy laws are involved, those accused on numerous accounts do not receive a fair hearing from an independent and impartial tribunal neither are they presumed innocent until proven guilty. Pressure, threats and assassinations¹⁶ have critically influenced the judges, police and lawyers in facilitating a court proceeding in accordance with these rights.

Jubilee Campaign urges the Human Rights Council, its members and observer states to urge the Islamic Republic of Pakistan to:

- Make specific and meaningful reforms to the blasphemy laws.
- Release blasphemy prisoners, or at least those prisoners in whose cases there is a clear lack of substantial, non-coerced evidence.

⁷ *supra* note 2, page 10.

⁸ www.foxnews.com/world/second-christian-woman-asia-bibi-blasphemy-pakistan.

⁹ *supra* note 2, page 8.

¹⁰ *ibid.*

¹¹ www.dawn.com/news/1523521/academic-junaid-hafeez-sentenced-to-death-on-blasphemy-charges-by-multan-court.

¹² www.theguardian.com/world/2019/dec/21/death-sentence-for-pakistani-lecturer-junaid-hafeez-in-blasphemy-case-prompts-outcry.

¹³ www.firstpost.com/world/death-sentence-for-pakistani-scholar-junaid-hafeez-for-blasphemous-posts-on-facebook-lawyer-slams-spineless-system-7813411.html

¹⁴ www.foxnews.com/world/american-citizen-shot-dead-in-pakistani-courtroom-after-breaking-blasphemy-law .

¹⁵ www.uscirf.gov/sites/default/files/Tier1_PAKISTAN_2019.pdf

¹⁶ www.bbc.com/news/world-asia-53582578.

- Repeal the blasphemy law.
- Until repeal can be accomplished, enact reforms to:
 - Make blasphemy a bailable offense.
 - Require evidence by accusers.
 - Allow investigatory authorities to dismiss unfounded accusations
- Enforce existing penal code articles that criminalize perjury and false accusations, commencing with launching an investigation against PTI president Qamar Riaz Sulehri.
- Ensuring the safety of Khawaja Asif and the dropping of all charges laid against him.
