

Mr. Gerard Quinn
Special Rapporteur on the rights of persons with disabilities
OHCHR-UNOG
CH-1211 Geneva 10
Switzerland



Dear Special Rapporteur,

On behalf of several organisations, we would like to bring to your attention the case of Stephen Masih, a Pakistani Christian man with mental disabilities detained by Pakistani authorities since 2019 under blasphemy charges. Authorities have denied Mr. Masih his rights to a fair trial as a person with disabilities. We respectfully ask that you raise Mr. Masih's case to relevant Pakistani authorities and call for his immediate and unconditional release.

Background

In March 2019 local Punjab police arrested Stephen Masih under Pakistan's Penal Code Section 295-C after an angry mob gathered around Masih's home claiming he had committed blasphemy and brutally assaulting him. The false accusations and the beatings were orchestrated by a local Muslim resident who made baseless allegations that Masih had insulted the Prophet. Rather than arresting the assailants surrounding Masih's property, authorities filed a First Information Report (FIR) against Mr. Masih and detained him. Following the arrest, the mob set fire to Masih's family home, shared with his elder brother and family. Mr. Masih's family has explained that Mr. Masih has been suffering from a mental health condition for a long time which hinders him from understanding and thinking properly, and should therefore, be absolved of guilt.

Authorities only registered formal charges against Mr. Masih three months after his arrest in June 2019. There have been 42 court hearings regarding the case; jail authorities kept Mr. Masih from attending seven of them. In addition, the judges have been on leave during six of the hearings, and Mr. Masih has still not received a final verdict. A hearing was scheduled for

A Vital Voice for Those Suffering in Silence

9689-C Main Street · Fairfax, VA 22031-3746 TEL: (703) 503-2260 FAX: (703) 503-0792 EMAIL:
jubilee@jubileecampaign.org

JUBILEE CAMPAIGN IS A NON-PROFIT, TAX EXEMPT, CHARITABLE ORGANIZATION IN THE UNITED STATES WITH ECOSOC STATUS.

SEPARATELY REGISTERED CHARITIES IN THE UNITED KINGDOM & IN THE NETHERLANDS

April 2020 but was delayed due to the Covid-19 pandemic. Authorities have not shared any evidence against Mr. Masih publicly and the prosecution's witness testimonies during the hearings have not been recorded.

In March 2020 a medical board was convened to review Stephen Masih's mental health, four months after the initial application request was sent in. On July 30, 2021, the Punjab Institute of Mental Health finally released its medical health report to the court after pending for a year. It should be noted that the release of the report came only after Voice for Justice arranged a meeting for Masih's lawyers to visit the Institute and pressure them to release the medical examination's results. The board of medical professionals concluded that Stephen Masih suffers from, "Bipolar Affective Disorder" and is "unfit to stand trial at the moment." Symptoms of the disorder include mood swings which can affect, "judgment, behaviour and the ability to think clearly."¹

Following the release of the medical examination Mr. Masih's lawyer filed an application for bail or if denied, that the custody of Mr. Masih be handed over to his brother since Mr. Masih was unfit for trial. The court rejected the petition on 5 August 2021. The courts in their decision made a non-authoritative medical conclusion, saying: "If the accused is a lunatic or mentally unfit person incapacitated to stand trial. Surely, he cannot engage any counsel to make application for bail." The court then further denied the bail request of Mr. Masih since the charge falls under the blasphemy law under section 295-C of the Pakistan Penal Code. The court failed to mention that this the first criminal charge laid against Mr. Masih and referenced "sufficient incriminating material" to charge Mr. Masih without providing the information to the public or to the defendant in breach of article 14 of the International Covenant on Political Rights (ICCPR). The court further denied the temporary release of Mr. Masih due to "serious threats" to his life at the hands of the public and that the risk of abscondence could not be ruled out. The court decided to delay the trial based on the opinion of the Medical Board on Mental Health until Mr. Masih, "gains his mental health."

Pakistan has both signed and acceded to the International Covenant on Civil and Political Rights and the Convention on the Rights of Persons with Disabilities and should not discriminate against Masih on account of his religious beliefs or disability.

¹ "Bipolar Disorder." *Mayo Clinic*, Mayo Foundation for Medical Education and Research, 16 Feb. 2021, www.mayoclinic.org/diseases-conditions/bipolar-disorder/symptoms-causes/syc-20355955.

A Vital Voice for Those Suffering in Silence

9689-C Main Street · Fairfax, VA 22031-3746 TEL: (703) 503-2260 FAX: (703) 503-0792 EMAIL:
jubilee@jubileecampaign.org

JUBILEE CAMPAIGN IS A NON-PROFIT, TAX EXEMPT, CHARITABLE ORGANIZATION IN THE UNITED STATES WITH ECOSOC
STATUS.

SEPARATELY REGISTERED CHARITIES IN THE UNITED KINGDOM & IN THE NETHERLANDS

Concerns

The arrest and detention of Stephen Masih violates several of his rights:

Firstly, charging Mr. Masih under Pakistan's blasphemy laws is incompatible with international human rights norms as noted by the Rapporteur on freedom of religion or belief and other UN experts.²

Secondly, Pakistani authorities have denied Stephen Masih's right to a fair trial. They have delayed his right to a "prompt" medical examination and releasing the results in a timely manner, in contravention of the principles 24 and 26 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles).³ They have also denied Mr. Masih's right to "adequate facilities," the prosecutions material evidence has not been provided to Mr. Masih by the court and have therefore also breached the principle of equality of arms enshrined in Article 14 (1) ICCPR. Mr. Masih has also not been present at all the court hearings. The court has discriminated Mr. Masih and been inconsistent in its conclusions by upholding that Mr. Masih is "unfit for trial" according to the medical examination results while justifying the denial of Mr. Masih's bail on the non-authoritative decision that he cannot be a lunatic or mentally unfit for engaging a counsel.

Request

² OHCHR side event during the Durban Review Conference, Geneva, 22 April 2009; <https://www2.ohchr.org/English/issues/religion/docs/SRjointstatement22april09.pdf>. United Nations, General Assembly. *Elimination of all forms of religious intolerance*** A/72/365. (28 August 2017). Office of the High Commissioner on Human Rights, *Historic consensus on freedoms of religion and expression at risk, say UN experts*, 23 March 2021, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26937&LangID=E>; United Nations, General Assembly, *Disinformation and freedom of opinion and expression – Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan*, 13 April 2021. para. 38.

³ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted December 9, 1988, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988).

A Vital Voice for Those Suffering in Silence

9689-C Main Street · Fairfax, VA 22031-3746 TEL: (703) 503-2260 FAX: (703) 503-0792 EMAIL:
jubilee@jubileecampaign.org

JUBILEE CAMPAIGN IS A NON-PROFIT, TAX EXEMPT, CHARITABLE ORGANIZATION IN THE UNITED STATES WITH ECOSOC STATUS.

SEPARATELY REGISTERED CHARITIES IN THE UNITED KINGDOM & IN THE NETHERLANDS

Considering the above, we call on the Special Rapporteur to place pressure on Pakistan via a communication, calling on them to immediately and unconditionally release Stephen Masih, recalling his mental condition and its international law obligations. Too often authorities in Pakistan disregard the rights of persons with mental disabilities or disorders from religious minorities especially when the accusations are related to blasphemy charges.⁴ As Stephen Masih's case is still being heard at the lower court, it is paramount that he receives a just verdict early on; waiting for an appeal hearing in an appellate court would only delay his access to justice further.

Sincerely,

Signatories

Organizations:

ADF International

International Christian Concern

Jubilee Campaign

Set My People Free

Voice for Justice

⁴ Rana Tanveer, 'Despite medical board's recommendation, 'mentally ill' accused yet to secure bail' *Express Tribune*, 2014 <<https://tribune.com.pk/story/936816/despite-medical-boards-recommendation-mentally-ill-accused-yet-to-secure-bail/>>; https://humanrightsreviewpakistan.wordpress.com/mentally-ill-prisoners-in-pakistans-criminal-justice-system-analysing-fair-trial-due-process-standards/#_ftn30.; Husain, Muzaffar. "Blasphemy laws and mental illness in Pakistan." *Psychiatric bulletin* (2014) vol. 38,1 (2014): 40-4. doi:10.1192/pb.bp.112.042572.

A Vital Voice for Those Suffering in Silence

9689-C Main Street · Fairfax, VA 22031-3746 TEL: (703) 503-2260 FAX: (703) 503-0792 EMAIL:
jubilee@jubileecampaign.org

JUBILEE CAMPAIGN IS A NON-PROFIT, TAX EXEMPT, CHARITABLE ORGANIZATION IN THE UNITED STATES WITH ECOSOC
STATUS.

SEPARATELY REGISTERED CHARITIES IN THE UNITED KINGDOM & IN THE NETHERLANDS

CC:

EU Special Envoy for the promotion of freedom of religion or belief outside the EU

Special Rapporteur on freedom of religion or belief

United States Commission on International Religious Freedom

State Department Office of International Religious Freedom

Chair of the International Religious Freedom or Belief Alliance

Embassy of Pakistan in the US

Permanent Mission of the Islamic Republic of Pakistan at the United Nations

A Vital Voice for Those Suffering in Silence

9689-C Main Street · Fairfax, VA 22031-3746 TEL: (703) 503-2260 FAX: (703) 503-0792 EMAIL:
jubilee@jubileecampaign.org

JUBILEE CAMPAIGN IS A NON-PROFIT, TAX EXEMPT, CHARITABLE ORGANIZATION IN THE UNITED STATES WITH ECOSOC
STATUS.

SEPARATELY REGISTERED CHARITIES IN THE UNITED KINGDOM & IN THE NETHERLANDS