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Agenda item 3

**A/HRC/12/NGO/14**

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL,  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO  
DEVELOPMENT**

Joint written statement\* submitted by Franciscans International, non-governmental organization in general consultative status; Pax Christi International-International Catholic Peace Movement, Pax Romana (the International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students), **Dominicans for Justice and Peace – the Order of Preachers**, non-governmental organizations 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.

**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 the systematic human rights violations due to the existence, the application and the abuse of so called blasphemy laws in Pakistan. The recent incidents in Gojra, Korian, Kasur and Gujranwala from June to August 2009 were a sad reminder of what has been going on under the excuse of blasphemy for nearly 25 years. 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. This killing and carnage happens on phony charges of ‘desecration of Quran by the Christians’. The administration repeatedly failed despite prior information and warnings about these attacks.

The statistics collected by the 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, Christians and Hindus.

**The blasphemy laws**

Five Sections 295 B, 295 C, 298 A, B and C, commonly known as blasphemy laws were made part of the Pakistan Penal Code, between 1980 and 1986, mainly through Presidential Orders by

Military dictator Gen. Zia Ulhaq. These Sections of the Criminal law presumably protect the honour of Prophet Mohammad, Quran, the Companions and Wives of the Prophet while bar Ahmadis from using Islamic terminology and symbols, 'preaching their faith or pose as Muslims.'

While the punishment for offenses 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 fine, Section 295-B (showing disrespect to Quran) has life imprisonment and Section 295-C (offering insult to Prophet Mohammad) carries 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 a deliberate action (intention) and unintended mistake thus vague and 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 'insult' or 'respect' however focus on the Modus Operandi of offense; writing, speaking, etc.
- The UN Special Rapportuer on Religious Tolerance observed[\[1\]](#) that the punishments accompanying blasphemy laws are excessive and disproportionate to the offenses. Some Islamic scholars have also condemned 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[\[2\]](#).

### **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 Islamic extremists.

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 with convenience. In many cases complaints are filed at the insistence of local Muslim clerics or outfits specializing hate against minorities. Thus these laws instill fear and sense of insecurity for liberal Muslims, human rights Defenders and religious minorities.

Once allegations surface these laws become a tool multiple for human rights violations. Maltreatment in custody and torture are commonplace, trials take years, resulting in innocent victims languishing in jails pending trial or appeal. Availability of a lawyer becomes difficult. The judges are reluctant to try these cases. In 1996, Justice Arif Hussain Bhatti, a Lahore High Court Judge who acquitted a blasphemy accused during his service was killed in his office as the killer thought the judge had committed blasphemy by doing so.

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

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

- a) Blasphemy laws in Pakistan are in conflict with **Universal Declaration of Human Rights**, Article 7 (Equality before the law and protection against discrimination, Article 19 (freedom of opinion and expression), Article 18 (freedom of thought, conscience, and religion).
- b) The 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 prohibit 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 discrimination’ and freely profess religion.
- d) The **UN Special Rapporteur on Religious Tolerance** after his only visit to Pakistan in 1995 made following recommendation:[\[3\]](#)  
‘...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.**[\[4\]](#)

- e) After reviewing a State party report in 2009 the **CERD Committee** ‘expressing 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. (art. 5 (d) (iv))’ recalled state party’s obligations on freedom of thought, conscience and religion’[\[5\]](#).

**We urge the Government of Pakistan to consider following recommendations for safety, security and protection of rights of the people of Pakistan:**

1. To remove all discriminations on the basis of religion that are part of the Constitution, laws and policies. In practical terms, the parliament should pass a resolution upholding that any law or policy under use or practice on part of the government institutions which

is contrary to Article 25 of the Constitution would be void and abolished except 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 check discrimination should be set up.

1. Take steps to repeal Blasphemy laws (aforementioned Sections of the Pakistan Penal Code) as procedural amendments have delivered no results.
1. Prosecute and bring to justice those who brought frivolous or malicious complaints; strengthen its legal and administrative procedures to stop against abuse of law and pressure from extremist groups.
1. Ban and forfeit 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.
1. Invite UN Special Rapportuer on Freedom of Religion or Belief to assess the situation and see the progress on recommendations made 1995 visit.
1. Protect political and religious organizations and institutions, judges, lawyers and other Human Rights Defenders who advocate a change in the law.
1. Investigations into the recent incident should be completed quickly and those guilty must be brought to justice as soon as possible.
1. Form a Commission of Inquiry composed to assess the situation and prepare report on the situation of minorities in Pakistan of at least Two Judges of High Courts, Two representatives of credible rights based civil society organizations and a secretary from Ministry of Minorities Affairs. This Commission should present its report to the Parliament along with recommendations for long term remedies to the situation within couple of months.
1. Seriously engage in education policy and curriculum reforms and ensure that the religious lessons be only taught in subject of Islamic studies which should be made an Elective rather than a compulsory subject. Moreover, the curriculum for school, colleges and universities should be cleansed 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 National Human Rights Council and Member States:**

10. The Office of the High Commissioner for Human Rights, 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 Minorities 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>[1]</sup> E/CN.4/1996/95.Add.1,Para 82

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

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

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

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

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