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RELIGIOUS FREEDOM IN PAKISTAN

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative Status before the United Nations Economic and Social Council. The ECLJ currently has an affiliate in Pakistan providing legal representation in persecution cases. The purpose of this report is to provide the 2012 Universal Periodic Review (UPR) with first-hand information and highlight systematic human rights abuses in Pakistan. Pakistan's anti-blasphemy laws, acquiescence to criminal activity, and failure to prevent institutional abuse continue to be of major concern.

Anti-blasphemy Laws

2. The 2008 UPR expressed concerns that Pakistan's anti-blasphemy laws impede the freedom of religion and conflict with recognised international standards.¹ Pakistan's rebuttal that its anti-blasphemy laws are not discriminatory² is not true in practice.³ The biggest concern, however, is not the laws' discriminatory application but their breadth and purpose to criminalise any perceived defamation of Islam. Additionally, Pakistan regularly disregards the procedural reforms⁴ to the blasphemy laws that it mentioned to the 2008 UPR.⁵

3. Currently, at least fourteen individuals convicted of blasphemy have death sentences pending or in the appeal process.⁶ In spite of constitutional provisions guaranteeing due process and a fair trial,⁷ most blasphemy cases were unduly influenced by Muslim extremists.⁸ Apart from constitutional concerns, such sentences conflict with Pakistan's commitment under Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which broadly guarantees the freedom of expression.⁹ Although Pakistan has entered into reservations regarding

¹See Rep. of the Working Group on the Universal Periodic Review, Human Rights Council, 8th sess, June 2008, ¶¶ 23, 27-28, U.N. Doc. A/HRC/8/42 (4 June 2008) [hereinafter 2008 Working Group Report].

²*Id.* at ¶ 46.

³Non-Muslims, who account for only 5% percent of the population, were the accused in half of all blasphemy cases. Nina Shea & Paul Marshall, *Blasphemy in Pakistan*, THE WEEKLY STANDARD, 24 Jan. 2011, available at <http://www.weeklystandard.com/author/nina-shea>.

⁴In 2005, Pakistan passed legislation requiring senior officials to investigate any blasphemy charge before an official complaint was filed. See Act 1 of 2005 The Criminal Law Amendment Act 2004, published in Pakistan Law Journal (PLJ) 2005 Federal Shariat Court, Annex I, at 207.

⁵See 2008 Working Group Report, *supra* note 1, at ¶ 46.

⁶U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 2012, at 128 (2012) [hereinafter ANNUAL REPORT 2012], available at [http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf). See also *id.* app. 7 at 385.

⁷PAKISTAN CONST. art. 10(A).

⁸See ANNUAL REPORT 2012, *supra* note 6, at 128 (stating that Muslim militants threaten judges and lawyers who issue acquittals or defend individuals charged with blasphemy respectively); *Pakistani Mother Condemned for 'Blasphemy' Stunned, Shattered*, COMPASS DIRECT NEWS (17 Nov. 2010), <http://www.compassdirect.org/english/country/pakistan/28627> (describing how Aasia Bibi's trial was influenced by a Muslim mob).

⁹International Covenant on Civil and Political Rights, 16 Dec. 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

Article 18,¹⁰ such reservations are incompatible with the object and purpose of the Covenant. Consequently, they are prohibited under Article 4 of the ICCPR¹¹ and General Comment 24 of the U.N. Human Rights Committee (UNHRC).¹²

4. Moreover, while Article 18 of the ICCPR allows for limitations on the manifestation of religious beliefs to “protect public safety, order, health or morals, or the fundamental rights . . . of others,” the UNHRC has explained that limitations are strictly interpreted and must not vitiate the rights guaranteed in Article 18.¹³ Moreover, the Committee stated that all restrictions must be applied in a non-discriminatory manner and proportionate to the harm they seek to remedy.¹⁴ Pakistan’s blasphemy laws do not satisfy this standard because they are used to target, silence, and intimidate religious minorities who are frequently arrested and charged under questionable evidence or false complaints aimed at settling personal scores.

5. Pakistan’s blasphemy laws have also created a permissive climate of mob violence and vigilantism. In July 2010, Christian pastor Rashid Emmanuel and his brother, who were accused of blasphemy, were shot by a protestor after handwriting experts concluded that their signatures did *not* match those on a blasphemous pamphlet.¹⁵ In January 2011, Governor Salman Taseer was murdered after he opposed Pakistan’s blasphemy laws.¹⁶ Sherry Rehman, a Muslim MP and current Pakistani Ambassador to the United States, received death threats after she introduced a bill that, if passed, would have ensured that punishments for blasphemy are proportionate and penalise false or frivolous accusations.¹⁷ A few months later, Shahbaz Bhatti, the Federal Minister for Minorities Affairs, was assassinated because he too spoke out against Pakistan’s blasphemy laws.¹⁸ Pakistan’s inability to combat this climate of vigilantism undermines its

¹⁰“The Islamic Republic of Pakistan declares that the provisions of Articles 3, 6, 7, 18 and 19 shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws.” See *Declarations and Reservations to International Covenant on Civil and Political Rights*, UNITED NATIONS TREATY COLLECTION, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#EndDec (last visited 22 Mar. 2012).

¹¹“No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.” ICCPR, *supra* note 9, art. 4(2).

¹²General Comment 24 states:

[R]eservations should not systematically reduce the obligations undertaken only to those presently existing in less demanding standards of domestic law. Nor should interpretative declarations or reservations seek to remove an autonomous meaning to Covenant obligations, by pronouncing them to be identical, or to be accepted only in so far as they are identical, with existing provisions of domestic law.

U.N. Human Rights Comm., General Comment No. 24: Issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant ¶ , U.N. Doc. HRI/GEN/1/Rev.7, *available at* [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/69c55b086f72957ec12563ed004ecf7a?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/69c55b086f72957ec12563ed004ecf7a?Opendocument).

¹³U.N. Human Rights Comm., *General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Art. 18)* ¶ 8, CCPR/C/21/Rev.1/Add.4 (1993) (emphasis added), *available at* <http://www.unhchr.ch/tbs/doc.nsf/MasterFrameView/9a30112c27d1167cc12563ed004d8f15?Opendocument>.

¹⁴*Id.*

¹⁵*Christians Accused of ‘Blasphemy’ Slain in Pakistan*, COMPASS DIRECT NEWS (19 July 2011), <http://www.compassdirect.org/english/country/pakistan/22927>.

¹⁶ANNUAL REPORT 2012, *supra* note 6, at 123.

¹⁷*See id.* at 129; *Bill to Amend Blasphemy Laws Submitted in NA Secretariat*, THE EXPRESS TRIBUNE (26 Nov. 2010), <http://tribune.com.pk/story/82002/bill-to-amend-blasphemy-laws-submitted-in-na-secretariat/>.

¹⁸ANNUAL REPORT 2012, *supra* note 6, at 123.

declaration to the 2008 UPR that it is working towards full democracy, restoring the rule of law, and guaranteeing universal human rights.¹⁹

6. In May 2011, Babar Masih, a mentally ill Christian man, was charged with blasphemy even though he lacked the mental capacity and intent to insult Islam. Masih was arrested without a preliminary examination. In addition, the complaint against Masih was not filed by the Muslim cleric who allegedly witnessed the blasphemous conduct but by a neighboring dairy farmer. The ECLJ's affiliate in Pakistan has since obtained a court order for a medical examination and secured Masih's release on bail. Pakistan's failure to take a stand against mob violence has created a precarious environment for non-Muslims as any expression, no matter how innocent or trifling, can be deemed insulting to Islam and result in retaliation from the government or the mob.

7. Pakistan has impermissibly restricted the freedom of expression by subordinating it to Shariah. This restriction has created a repressive environment in which anyone may be punished for any action deemed inconsistent with Islam. While the Pakistani constitution allows for such restrictions,²⁰ it is antithetical to the ICCPR. The 2012 UPR must hold Pakistan accountable to the rule of law and its international commitments.

Other Criminal Acts Against Religious Minorities.

8. The 2012 UPR must continue to address Pakistan's acquiescence in tolerating criminal acts being committed against non-Muslims because of their faith. Religious minorities have been the targets of sexual assaults, fraudulent property seizures, and institutional violence. The government's failure to address non-Muslims' claims violates Article 26 of the ICCPR, which provides all people with equal and effective legal protection against discrimination.²¹

Sexual Assaults.

9. Christian women have reported sexual assaults by Muslim men with alarming frequency. Because Christians make up a fraction of the population, Muslim rapists "assume they will not be prosecuted if their victims are Christians."²² The government's lack of response to these assaults violates Article 26 of the ICCPR and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which guarantees women basic human rights and equality before the law.²³

10. In September 2011, Mrs. Masih, a Christian woman, was gang-raped by three Muslim men.²⁴ Local Muslims threatened that they would kill the victim's family and see that a similar fate would befall her daughters if she pressed charges against her Muslim attackers. Police urged

¹⁹See 2008 Working Group Report, *supra* note 1, at ¶ 103.

²⁰PAKISTAN CONST., *supra* note 7, arts. 19, 20.

²¹ICCPR, *supra* note 9, art. 26.

²²*Christian Mother of Five in Pakistan Alleges Rape*, COMPASS DIRECT NEWS (21 Sept. 2011), http://www.compassdirect.org/english/country/pakistan/article_120617.html.

²³Convention on the Elimination of All Forms of Discrimination against Women, 18 Dec. 1979, 1249 U.N.T.S. 13.

²⁴*Christian Mother of Five in Pakistan Alleges Rape*, *supra* note 22.

the victim to drop the case.²⁵ In July 2011, the ECLJ’s affiliate in Pakistan assisted Magdalene Ashraf, a Catholic nursing student who was gang-raped and beaten by a Muslim doctor and his accomplices. Ashraf withdrew her complaint after receiving threats from the doctor. In March 2011, Shaheen Bibi, a Christian woman, was kidnapped, raped, trafficked, and threatened with death if she did not renounce her faith. The ECLJ’s affiliate in Pakistan helped obtain Shaheen’s release. In January 2011, a Muslim man, who confessed to raping five Christian girls, was charged for the rape of a 10-year-old Catholic girl. The victim’s family was pressured not to press charges because it would negatively affect Christian-Muslim relations.²⁶ In July 2010, a group of 16-year-old students gang-raped a 12-year-old Christian girl to “teach . . . Christians a lesson.”²⁷ The police refused to file a complaint against the attackers.²⁸ In May 2010, Zafar Masih, a Christian man whose 12-year-old-daughter was raped, was told by a local official that all Christians in the area would be expelled if he pressed charges.²⁹

11. This pattern of sexual assaults against Christian women is a major human rights concern. As the 2008 UPR stated, it is critical that Pakistan take more action to prevent sexual assaults from occurring, train police officers to better deal with victims and societal intimidation, ensure that victims have redress in the courts, and punish perpetrators who violate the law.³⁰ All women have the fundamental right to be protected from such heinous acts, and perpetrators should not be held to be above the law because of their faith or social status.

Fraudulent Property Seizures.

12. In the 2008 UPR report, Pakistan noted that there is a misconception concerning the treatment of non-Muslims. Contrary to Pakistan’s claim, religious minorities face legal, physical, and economic persecution. Individuals and government actors have fraudulently seized non-Muslims’ legally owned property through corruption and illegal threats of force.

13. In February 2012, ten Christians were arrested after local Muslims falsely accused them of blasphemy in an attempt to seize land. A “reconciliation committee” comprised of Muslim leaders recommended that the Christians be released on the condition that Bashir Masih surrender a parcel of property.³¹ Although the condition was not enforced and the Christians were released, this incident reflects police complicity in fraudulent schemes to deprive Christians of their property. Additionally, in November 2011, police officers and associates of a military officer seized 12.5 acres of farmland that belonged to a Christian family. After the Christian owners refused to abandon their property, the group physically attacked them and shot at other

²⁵*Id.*

²⁶*Muslim Villager in Pakistan Allegedly Rapes Sixth Christian Girl*, COMPASS DIRECT NEWS (14 Jan. 2011), <http://www.compassdirect.org/english/country/pakistan/31261>.

²⁷*Rapes of Christian Girls in Pakistan Reflect Hidden Trend*, COMPASS DIRECT NEWS (16 Aug. 2010), <http://www.compassdirect.org/english/country/pakistan/24114>.

²⁸*Id.*

²⁹U.S. DEP’T OF STATE, *July–December, 2010 International Religious Freedom Report – Pakistan*, § II, at 19 (13 Sept. 2011) [hereinafter *July-December, 2010 Int’l Religious Freedom Report*], <http://www.state.gov/documents/organization/171759.pdf>.

³⁰See 2008 Working Group Report, *supra* note 1, at ¶ 62.

³¹*Pakistani Muslims Employ ‘Blasphemy’ Threat in Land Grab*, COMPASS DIRECT NEWS (2 Feb. 2012), http://www.compassdirect.org/english/country/pakistan/article_1420922.html.

Christians who attempted to help. The owners had been given legal title to the land by the government in 1976. The government has yet to investigate the owners' property claims or the groups' attack.³² Furthermore, in September 2011, the ECLJ's affiliate in Pakistan successfully defended the United Presbyterian Church in Pasroor. The church, which had been built through personal donations and investments, was forcibly seized by Muslim landlords who annexed it with their homes. The church filed a permanent injunction to prevent the annexation. Moreover, in November 2010, a group of Muslim land-grabbers, acting with the support of the local government, demolished 150 Christian graves and desecrated religious symbols in an effort to erect shops on the property. Police downplayed the incident and stated that the Muslim land-grabbers were the rightful owners. The ECLJ affiliate in Pakistan is currently representing the Christians in the case.³³ Pakistan's actions violate its commitments under the ICCPR³⁴ and the International Covenant on Economic, Social and Cultural Rights (ICESCR).³⁵

Police Torture.

14. Contrary to Pakistan's previous assertion to the 2008 UPR that its security officers do not act with impunity,³⁶ the aforementioned cases and many other recent instances reflect a willing disregard of humanitarian standards. Police officers and administrative officials have sanctioned, engaged in, or ignored instances of police torture.

15. In November 2011, a Christian couple, who was wrongly accused of burglary, was severely beaten by the police in an attempt to illicit a confession. Mrs. Emmanuel, who was pregnant at the time, stated that officers threatened to kill her unborn baby unless she confessed. Mr. Emmanuel stated that the police offered to drop the charges against him if he renounced his Christian faith. The police denied any wrongdoing. An investigation was only ordered following press reports;³⁷ however, no police officers were ever suspended or brought to justice. In June 2011, the police tortured Maryam Ashraf, a 17-year-old Christian woman, to discover the location of her brother who had eloped with a Muslim woman. The police also physically assaulted her family, whom the ECLJ's affiliate in Pakistan represented. In January 2011, the police abducted, sexually assaulted, tortured, and shot Waqas Gill, a Christian man. Reports did not identify any provocation on the part of Gill and highlighted the fact that there was no warrant for his arrest. The police threatened to kill Gill's family or file false charges against them if they did not retract their complaint.³⁸

16. These instances highlight the need for reform and accountability. Institutional violence violates the ICCPR, which provides that all persons detained must be provided with "respect for

³²*Muslims in Pakistan Beat, Shoot at Christians in Land Grab*, COMPASS DIRECT NEWS (1 Dec. 2011), http://www.compassdirect.org/english/country/pakistan/article_123795.html.

³³*Pakistani Officials Back Muslim Land-Grabbers, Christians Say*, COMPASS DIRECT NEWS (1 Dec. 2011), <http://www.compassdirect.org/english/country/pakistan/69663>.

³⁴See ICCPR, *supra* note 9, art. 8.

³⁵International Covenant on Economic, Social and Cultural Rights, 16 Dec. 1966, 993 U.N.T.S. 3.

³⁶See 2008 Working Group Report, *supra* note 1, at ¶ 104.

³⁷*Police in Pakistan Beat Pregnant Christian, Husband for 3 Days*, COMPASS DIRECT NEWS (29 Nov. 2011), http://www.compassdirect.org/english/country/pakistan/article_123726.html.

³⁸*Pakistani Police Allegedly Make Threats after Murdering Christian*, COMPASS DIRECT NEWS (18 Jan. 2011), <http://www.compassdirect.org/english/country/pakistan/31466>.

the inherent dignity of the human person,”³⁹ as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).⁴⁰

Conclusion

17. Pakistan must abide by the rule of law. While Pakistan has created a human rights commission, the overwhelming evidence suggests that the commission is either ineffective or its mission is severely constrained by the government. Moreover, although Pakistan recently passed legislation giving more protection to women,⁴¹ the application of these laws and their constitutionality in light of Islamic law remain to be seen. The 2012 UPR must address these issues on behalf of persecuted religious minorities and women.

³⁹ICCPR, *supra* note 9, art. 10.

⁴⁰Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 Dec. 1984, 1465 U.N.T.S. 85.

⁴¹See *Message of Syed Yusuf Raza Gilani Prime Minister of Pakistan on International Women’s Day*, EMBASSY OF THE ISLAMIC REPUBLIC OF PAKISTAN (Mar. 8, 2012), http://www.embassyofpakistanusa.org/news508_03082012.php (praising legislation such as the Prevention of Anti-Women Practices Act 2011 and Acid Crime Prevention Act 2011, which prohibit forced marriages, “marriage with the Qur’an,” and acid throwing).