

No justice for minorities in Pakistan

The destabilizing consequences of impunity

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Abstract

Pakistan suffers a “culture of impunity” and government toleration of religious persecution. Blasphemy laws are a leading instrument. Though the state has not executed anyone under this law, the punishment for those convicted is severe. Persons identified as blasphemers are also targeted for violence which goes unpunished by the government. Christians have been attacked and killed, and efforts have been made to ban the Bible. Hindus find their young girls subject to forced conversions and marriages. Ahmadis also suffer persecution, and blasphemy laws are increasingly used by Muslims against one another, sometimes as weapons in private quarrels. The government of Pakistan should repeal the blasphemy law, punish perpetrators of religious violence, and practice greater transparency.

Keywords Pakistan, blasphemy, law, impunity, Bible, Muslims, Ahmadiyya, Hindus, Christians.

A young girl walks to the store to buy her father some juice. It is a beautiful, sunny Easter morning as she walks through the streets of Lahore, Pakistan. The rest of her family is at church, but she has stayed home to take care of her father who is ill. A group of men walk past, and the girl skirts around them, anxious to complete her task and be safely back at home. Soon however, she hears a rough laugh from behind her and realizes that the men are following her. She tries to run, but they box her in. As a noxious cloth covers her mouth, she hears one of the men raise a concern about being caught and charged with the rape they have planned. Then, as her world fades away, she hears the leader of the group respond with a laugh as he

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allays his accomplice's fears. "We can do anything we want with her, even kill her! Nothing will happen to us. She is a Christian!" The girl is kidnapped off a public street in the full light of day, and no one intervenes or even notices.³

As it turned out, Shaheena Masih, on whom this story is based, was not killed.⁴ Through her own personal bravery and her family's unceasing pursuit, she was rescued and returned to her home and loved ones.⁵ However, the leader of the group of men was correct about the probable consequences, or lack thereof, for him and his men. While the four men involved in her kidnapping, gang rape, and beatings were initially arrested, three were released almost immediately. There is no evidence that the police are pursuing the case.⁶ This kind of judicial inattention is referred to as impunity – the "[e]xemption and protection from penalty or punishment."⁷ In Pakistan, the problem of impunity presents itself as a systematic failure to prosecute those who victimize minority groups to an extent that encourages nongovernmental, societal actors to target said minority groups, having confidence that there will be no recriminations.

The government of Pakistan is responsible for the persecution of its religious minorities. However this persecution often takes place through inaction rather than action. In Pakistan impunity in cases of persecution of religious minorities has become the pervading culture. Blasphemy laws are consistently used as weapons of persecution, and the government turns a blind eye when violence is perpetrated against the alleged blasphemers. Because of this pattern of impunity, Christians fear increased persecution following the recent high profile murders of government officials seeking to amend or abolish the blasphemy laws. This culture of impunity has a tragic effect on all communities involved. Therefore, the government of Pakistan must take immediate and transparent action to reverse the culture of impunity in order to protect religious minorities and the stability of its society as a whole.

1. Blasphemy laws and the problem of impunity

In order to understand the way that Pakistan persecutes its minorities, we must examine the blasphemy law. Section 295-B of the Pakistan Penal Code addresses "Defiling The Copy of the Holy Qur'an" and states:

Whoever willfully defiles, damages or desecrates a copy of the Holy Qur'an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.⁸

³ Dramatization based on a true story.

⁴ *Christians targeted [sic] in Pakistan over Easter period; Twelve year-old Pakistani Christian girl gang-raped on Easter Day*, Christian Solidarity Worldwide (April 27, 2007), <http://tinyurl.com/62x4cqf>.

⁵ *Id.*

⁶ *Id.*

⁷ Black's Law Dictionary 520 (abridged 6th ed. 1991).

⁸ Pakistan Penal Code Act, No. 45 of 1860, Pak. Penal Code, v. 295-B inserted by Criminal Law

Section 295-C of the Pakistan Penal Code reads:

Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to a fine.⁹

The exceptionally broad legal language here and in other sections¹⁰ has been stretched to cover some truly absurd cases. For example, Irshad Bibi, a Muslim woman, was accused of blasphemy because a local cleric claimed she had “insult[ed] his beard, which is considered an insult to the Prophet Mohammed.”¹¹

Despite the high number of false charges brought under the blasphemy laws¹², the courts find the accused guilty in most cases,¹³ issuing harsh penalties including life imprisonment and the death penalty. Though the state has yet to execute anyone under the blasphemy laws,¹⁴ there are several in jail awaiting execution and fighting to appeal their sentences. One example is in the notorious case of Asia Noreen (Bibi), a Christian mother of five falsely accused of blasphemy.¹⁵ Many others, as in the case of Qamar David, are burdened with enormous fines in addition to life imprisonment.¹⁶

The factors relating to this high conviction rate include not only the vagueness of the law, but also a general lack of evidentiary rules and an absence of any intent requirement.¹⁷ The fact that only Muslims may be attorneys and witnesses¹⁸ and that there is “no legal recourse for false accusations,”¹⁹ intensifies this problem. Furthermore, the judiciary has a complete lack of will to execute justice in these

(Amendment) Act, No. 3 of 1986.

⁹ Pakistan Penal Code Act, No. 45 of 1860, Pak. Penal Code, v. 295-C *inserted by* Criminal Law (Amendment) Act, No. 3 of 1986.

¹⁰ Pakistan Penal Code Act, No. 45 of 1860, Pak. Penal Code, v. 295-A, B *inserted by* Criminal Law (Amendment) Act, No. 3 of 1986 and 298-A added by Pakistan Penal Code (Second Amendment) Ordinance, No. 44 of 1980.

¹¹ Pakistan International Religious Freedom Report 2003, U.S. Department of State, <http://tinyurl.com/3dj4xkm> (last visited June 21, 2011).

¹² See, Pakistan International Religious Freedom Report 2010, U.S. Department of State (Nov. 17, 2010), <http://tinyurl.com/365zoar> (listing multiple examples of cases brought on false accusations).

¹³ Benedict Rogers, *Blasphemy laws and the persecution of minorities in Pakistan*, Religion Compass Exchange (Jan. 2009), <http://tinyurl.com/3rjbjzg>.

¹⁴ Pakistan International Religious Freedom Report 2010, *supra* note 10.

¹⁵ Jibrán Khan, Asia Bibi still in prison. Government u-turn on law against blasphemy, *Help Asia News* (Jan. 3, 2011, 11:04) <http://tinyurl.com/33qbg7d>.

¹⁶ See, e.g., Pakistan International Religious Freedom Report 2010, *supra* note 10.

¹⁷ Rogers, *supra* note 11.

¹⁸ See Felix 2001: 58.

¹⁹ Religious Liberty Partnership, *Virginia Statement on the Islamic Republic of Pakistan*, 3:2 IJRF 154, 156 (2010).

cases. Some judges exhibit an extremist mindset,²⁰ while others are often intimidated into indefinitely detaining or convicting innocent people.²¹ Suspects detained indefinitely without bail are often brutally mistreated by the police and inmates and kept in deplorable conditions while the courts refuse to hear their cases.²²

Pakistan also fails to prosecute and punish those who perpetrate violence against judges and others who have acquitted individuals charged with violating the blasphemy laws. The infamous case of Salman Taseer, governor of Punjab Province, illustrates the systematic impunity with which these perpetrators of violence and terrorism are treated. Governor Taseer called for the repeal of the blasphemy laws and the release of Asia Noreen (Bibi).²³ On January 4, 2011, his efforts led not to Asia's release, but to his assassination at the hands of his own bodyguard.²⁴ Although the bodyguard is still being held in jail at the writing of this article, the governor's murderer has not been prosecuted despite the availability of eye witnesses and extensive forensic evidence, exemplifying the lack of will to pursue justice on the part of the judiciary.²⁵

Law enforcement officials also contribute to the problem by arresting suspects based on false accusations and giving in to pressure from extremists. One example of mob control over law enforcement comes from Gujranwala, where on April 18, 2011, the police responded to brutal mob violence against a Christian community by arresting the victims.²⁶ In January 2011 Mushtaq Gill and his son Farrukh Mushtaq Gill had been falsely accused of desecrating the Quran and insulting the Prophet Mohammed. The police determined that the allegations were false.²⁷ Four months later accusations were made against them again under similar circumstances, but this time an extremist mob violently attacked a Christian community proclaiming outrage over the blasphemy. The police arrested Mustaq and Farrukh Gill and filed

²⁰ Rogers, *supra* note 11 ("Some members of the police and the judiciary are themselves extremists involved in condoning or perpetrating violence against people accused of blasphemy. In 2000, Acting Chief Justice of the Lahore High Court, Justice Mian Nazir Akhtar, said that no one had authority to pardon blasphemy and that anyone accused of blasphemy should be killed on the spot, as a religious obligation").

²¹ *Id.* ("Regularly, mobs of Muslims, often led by Mullahs, crowd into the courtroom, shouting threats at the judge if he does not rule in their favor"); Pakistan International Religious Freedom Report 2010, *supra* note 10 (Lower courts were frequently subjected to intimidation, delayed issuing decisions, and refused bail for fear of reprisal from extremist elements")

²² *Id.* (recalling the example of Aslam Masih who was beaten so badly by police and inmates that he sustained permanent damages from his injuries, including memory loss).

²³ See *supra* text accompanying note 13.

²⁴ *Punjab Governor Salman Taseer assassinated in Islamabad*, BBC (Jan. 4, 2011 at 17:54), <http://tinyurl.com/33u8jlr>.

²⁵ Shehribano Taseer, Address to the Pakistan-American Christian Coalition (June 27, 2011).

²⁶ CLAAS, Brutal Attack in Gujranwala (April 18, 2011)(on file with author).

²⁷ *Id.*

blasphemy charges because it was easier than arresting the mob.²⁸ In other instances the police have been known to exhibit extremist beliefs by torturing and even killing prisoners in their custody who had been accused of blasphemy.²⁹

The problem of intimidation and violence not only affects the judiciary and law enforcement, but also the accused, the attorneys, and the acquitted. Blasphemy laws and other discriminatory practices have led to countless deaths and function as societal targeting mechanisms for extremists. Since 2003, over 35,000 people have died from religious violence as nongovernmental, societal actors take action against the minorities that the government, in practice, refuses to protect.³⁰ As Benedict Rogers, a human rights campaigner, wrote in a report on Pakistan's blasphemy laws: "In the eyes of extremists, once a person is accused of blasphemy they are marked for life . . . In addition to the threats and violence against lawyers and blasphemy suspects, allegations of blasphemy often provoke mass communal violence directed against Christian and other non-Muslim communities."³¹

Generally, once an accusation of blasphemy is leveled, violence erupts against the accused individual or community. The perpetrators of this violence are not prosecuted, but are either not charged or acquitted. There are some rare exceptions where justice is delivered,³² but a more common story is the outcome of a case that has been working its way through the Pakistan justice system for two years. The original accusation alleged that the "Christians had burnt pages of the Quran during a wedding."³³ The local Muslims acted on this mere allegation without further investigation and attacked the Christian community. They burned over 100 homes and killed eight Christians.³⁴ According to some sources, the Christians in Gojra were "burned alive."³⁵ While the police arrested forty-two people initially, they shortly released all but eight.³⁶ As the case progressed slowly to its conclusion,

²⁸ *Id.*

²⁹ See CLAAS, Appeal from CLAAS-Pakistan at 2 (Apr. 29, 2011)(on file with author); Rogers, *supra* note 11 (recounting the case of Samuel Masih who was assassinated by his police guard while receiving treatment for tuberculosis that he contracted while incarcerated. "Faryad Ali, the killer later said that he wanted to earn a place in heaven by killing Samuel the blasphemer and was reportedly calm after the attempt").

³⁰ David Alton, *The plight of Pakistan's minorities Ahmadis, Christians, Hindus, Buddhists and Zoroastrians facing campaign of relentless violence*, David Alton.net (June 12, 2011, 5:04 PM), <http://tinyurl.com/3n5ygdy>.

³¹ Rogers, *supra* note 11.

³² See, for example, the case of Maqsood Ahmed who was sentenced to death for the murder of two Christians who were being transported back to jail after a blasphemy hearing, *Killer of Christian brothers given death penalty in Pakistan*, Barnabas Aid (Apr. 21, 2011), <http://tinyurl.com/44we8yq>.

³³ *Id.*

³⁴ Pakistan International Religious Freedom Report 2010, *supra* note 10.

³⁵ Pakistani Christians condemn acquittal of Muslim culprits of burning alive Christians in Gojra, *Pakistani Christian Post* (June 7, 2011), <http://tinyurl.com/3ot8te6>.

³⁶ Pakistan International Religious Freedom Report 2010, *supra* note 10.

the perpetrators were treated with the typical impunity seen in these cases. On June 7, 2011, a Pakistani anti-terrorism court cleared all those involved.³⁷

Cases such as these can only embolden those who believe their violence to be divinely sanctioned to begin with. With such an overwhelming amount of religious violence and impunity in Pakistan, the government has no need to directly attack the minority communities. They can simply deny these peaceful communities justice, and the extremists fervently take violent action against them.

2. The Bible as blasphemy and fear of future impunity

This pattern of impunity leads to minority religious communities living in constant fear of new incidents of persecution. The Christian community in Pakistan, a mere three percent or less of the population, is currently at risk due to ongoing developments regarding the blasphemy laws. International attention has been focused on Pakistan because of a recent attempt by some of its more radical clerics to ban the Christian Bible. The ban was proposed by members of the Jamiat Ulema-e-Islam (Sami Ul Haq),³⁸ a splinter group of the Parliamentary coalition currently in power in Pakistan. Historically the JUI has had close ties to extremist groups. It even “gave rise to ... terrorist organizations like Harkat-ul-Mujahideen (HM), Jaish-i-Muhammad (JM), Sipah-e-Sahaba Pakistan (SSP) and Lashkar-e-Jhangvi (LJ).”³⁹ With such a background it is not surprising that this party is calling on the Supreme Court of Pakistan to ban the Bible on the grounds that it is a blasphemous document.⁴⁰

While it appears this demand is more of a publicity stunt, responding in kind to Terry Jones’ burning of the Quran,⁴¹ the Christian community both inside and outside of Pakistan is concerned that this could presage even greater persecution of the Christian minorities in Pakistan.⁴² Banning the Bible would effectively “criminalize Pakistani Christians,”⁴³ a very serious step even for an Islamic republic. Banning the Bible would violate the very religion on which Pakistan’s government claims to be based because the Quran appears to contradict such a policy in verses that refer

³⁷ 70 People accused of anti-Christian violence acquitted in Pak, *supra* note 27.

³⁸ Jamiat Ulema-e-Islam Assembly of Islamic Clergy, Global Sec., <http://tinyurl.com/4x68fjn> (last visited June 21, 2011).

³⁹ *Id.*

⁴⁰ Atika Rehman, JUI-S Urges SC to ban Bible within 30 Days, *International Herald Tribune*, June 9, 2011, <http://tinyurl.com/3de7d5q>.

⁴¹ Anugrah Kumar, *Now Bible faces blasphemy charges in Pakistan*, *The Christian Post.com* (June 03, 2011, 11:19 AM), <http://tinyurl.com/3pqdmk4>.

⁴² Amy Shank, *Call for Bible ban in Pakistan concerns Christians*, *Christian Today.com* (June 10, 2011, 17:31 (BST)), <http://tinyurl.com/3lu9jal>.

⁴³ *Id.*

to Christians and Jews as “people of the book”⁴⁴ and recognizes the Torah and the Gospel as revealed by Allah for guidance.⁴⁵ According to the explanation of former Prime Minister of Pakistan, Benazir Bhutto:

Islam accepts as a fundamental principle the fact that humans were created into different societies and religions, and that they will remain different . . . God created diversity and asked believers to be just and to desire justice in the world . . . Freedom of choice, especially in matters of faith, is a cornerstone of Quranic values. This freedom, of course, leads to pluralism in religion, both within Islam and outside.⁴⁶

Both the current blasphemy laws and this new proposal to ban the Christian Bible directly contradict this concept. If the current attempt to ban the Bible in Pakistan is successful, it is highly probable that an increased wave of persecution will occur in the same manner as past religious violence based on blasphemy allegations. Every Christian would be accused of blasphemy for having a Bible and widespread violence and murder would break out.⁴⁷

3. Impunity affects all communities

The negative effects of impunity touch not only the Christian community, but all of Pakistani society at large. Other persecuted religious minorities in Pakistan include the Hindus and the Ahmadiyya.⁴⁸ The Muslim community has developed the custom of using these tools of persecution against its own members as well.⁴⁹ The ongoing impunity has led to an overall culture of violence and instability.

In the Hindu community, persecution often takes the form of severe discrimination and mob violence. Last year in Karachi, Pakistan, almost sixty people were forced to flee the area to escape an Islamic mob. When a thirsty Hindu boy drank from a “cooler outside a mosque,”⁵⁰ the local Muslims attacked and beat him. The violence spread, and eventually the entire extended family was forced to leave

⁴⁴ Benazir Bhutto, *Reconciliation: Islam, democracy and the West* 37 (New York: Harper Collins, 2008).

⁴⁵ *Id.* at 36. (quoting excerpts of the Quran for the proposition that Islam is tolerant and inclusive of Judaism and Christianity.)

⁴⁶ *Id.* at 30-31.

⁴⁷ It appears that the current efforts to ban the Bible have been condemned by Jamiat Ulema-e-Islam party leaders and the clerics responsible for the proposal censured; however, this does not mean that the threat of future efforts in this direction or increased persecution of Christians has disappeared. See *Leaders appreciate lifting of Bible threat: Praise for Islamic Party for reversing decision to demand ban in wake of Qur'an burning*, UCA News (June 15, 2011), <http://tinyurl.com/3z97bct>.

⁴⁸ U.S. Commission on International Religious Freedom, 2011 Annual Report, May 2011, 114, <http://tinyurl.com/3k94dvy>. [Hereinafter USCIRF 2011].

⁴⁹ Rogers, *supra* note 11.

⁵⁰ Mohammad S. Solanki, “Hounded” Hindus take shelter in Karachi cattle pen after drinking water from Mosque, *Pakistan*, PAK HINDU POST, (July 9, 2010 5:44 PM). <http://tinyurl.com/3y25z4r>.

their homes. “Police officials . . . failed to take any steps to stop the atrocities being meted out to the minority community.”⁵¹ Without protection from local authorities, people cannot live normal lives.

Another way in which the Hindu community is commonly victimized is the practice of Muslim’s kidnapping, “converting,” and “marrying” their young women. According to the Human Rights Commission of Pakistan, an estimated 20 to 25 Hindu girls are kidnapped and forcibly converted every month.⁵² One example is the case of Gajri Ram who was kidnapped by a Muslim neighbor in December 2009.⁵³ Some-time later, her parents were informed that she had “converted” to Islam, married the Muslim man, was sequestered in the Madrassa (Islamic seminary), and was not allowed to see her parents.⁵⁴ Since Gajri was fifteen years old, her parents attempted to file an abduction report with the police. However, the police refused to accept the application stating that “their daughter was now the ‘property of the madrassa’”.⁵⁵ Prominent human rights activists are currently pursuing this case; but, even if they succeed, winning the case will take years during which this little girl will live in a “marriage” which is nothing more than a license for rape.⁵⁶ This pattern of impunity and police inactivity, leads to frequent forced conversion and marriages.

Another community that suffers in this culture of impunity is the Ahmadyya. The Ahmadis consider themselves Muslim, but some of the tenets of their doctrine draw the ire of mainstream Muslims who see them as apostates.⁵⁷ There are even laws in effect that discriminate against Ahmadis, ban them from all public life, and restrict their freedom to practice their religion.⁵⁸

As with other minorities, the Ahmadis are most harmed by the inaction of the government to protect them from violent extremists. According to the US Commission on International Religious Freedom (USCIRF), during the “largest incident of anti-Ahmadi violence in recent years,” the government ordered its Rangers “not to intervene.”⁵⁹ The culture of impunity has created a situation in which there is

⁵¹ *Id.*

⁵² Pakistan International Religious Freedom Report 2010, *supra* note 10.

⁵³ *Hindu girl forced to convert to Islam*, ExpressIndia.com (Apr 23, 2010, 17:55 hrs IST), <http://tinyurl.com/3llorhx>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.* See also, *Pakistani Christians condemn acquittal*, *supra* note 30 (exemplifying the slow process of the justice system).

⁵⁷ Saba Imtiaz, *Ahmadis in Karachi: Pulpit pounding, barricades, prayers but no peace*, *International Herald Tribune*, June 19, 2011, <http://tinyurl.com/3m6r5c6>.

⁵⁸ See, Pakistan Penal Code Act, No. 45 of 1860, Pak. Penal Code, v. 298-B, 298-C, *inserted by Anti-Islamic Activities of Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance*, No. 20 of 1984.

⁵⁹ USCIRF 2011, *supra* note 46.

“no justice ... [as] [t]here seems to have been no determined effort on the part of authorities in Punjab to track down those responsible or to ensure that such an incident never takes place again.”⁶⁰ Ahmadis in Karachi and elsewhere sneak into their places of worship, leaving their women and children at home for fear that this type of incident will be repeated.⁶¹ Ahmadis are discriminated against in government employment and business. They are frequently assassinated simply for owning businesses or participating in certain professions, and the perpetrators go unpunished.⁶²

The Muslim community itself is also harmed by this culture of impunity. When systematic impunity is in effect, the only safe position becomes that of an accuser who can use and abuse his power to force others to give way to him. In Benedict Rogers' analysis of Pakistan's blasphemy law he addresses this phenomenon:

“It is important to note that when the blasphemy laws were first introduced, the majority of accused were non-Muslims, and particularly Christians. However, in recent years Muslims themselves have started using the law against each other, and it is estimated that 49 percent of the total number of blasphemy cases since 1986 affect Muslims.”⁶³

One of the reasons for this may be that as these patterns of impunity become established, the issue is no longer religion, but is simply human vice. Those who desire to take what they want now have a means of sidestepping the rules of civilized society. Thus, it comes as no surprise that “[m]any, perhaps most, blasphemy cases are not even directly related to religion – they usually revolve around land-grabbing disputes or personal vendettas.”⁶⁴

Overall, this culture of impunity has led to a destabilization of Pakistan and made it an “epicenter of religious intolerance and religiously-motivated violence in the region and beyond ...”⁶⁵ This has even led to the assassinations of public officials who have fought for the rights of minority communities or called for the repeal of the blasphemy laws, including Federal Minister Shabaz Bhatti on March 2, 2011, Punjab Governor Salman Taseer in January 2011, and Benazir Bhutto, former Prime Minister and wife of President Asif Ali Zardari in December 2007.⁶⁶ The recent assassinations of these key advocates for change have led to unprecedented levels of

⁶⁰ One year after attack on Ahmadis, editorial, *International Herald Tribune*, May 29, 2011, <http://tinyurl.com/3v336hz>.

⁶¹ Imtiaz, *supra* note 55.

⁶² *Id.*

⁶³ Rogers, *supra* note 11.

⁶⁴ *Id.*

⁶⁵ Religious Liberty Partnership, *supra* note 17, at 156.

⁶⁶ *Id.* at 154-55.

attacks on minorities and have not been meaningfully prosecuted, according to the pattern of impunity so prevalent in Pakistan.⁶⁷

4. Recommendations for change

“Central to the achievement of civil society and the maintenance of public order is the upholding of the rule of law.”⁶⁸ Through its practice of impunity, Pakistan has failed to uphold the rule of law and the principles upon which it was founded. Quaid-e-Azam Mohammed Ali Jinnah, considered the founder of Pakistan, had a vision of freedom of religion and equal rights of all citizens no matter what their religion or class.⁶⁹ He stated that “Minorities are the sacred trust of Pakistan.”⁷⁰ Some of his vision was included in the preamble of the 1973 Constitution of Pakistan:

[I]t is the will of the people of Pakistan to establish an order . . .
Wherein the principles of democracy, freedom, equality, tolerance and social justice . . . shall be fully observed; . . .
. . . adequate provision shall be made for the minorities freely to profess and practice their religions and develop their cultures; . . .
. . . [there] shall be guaranteed fundamental rights, including equality of status, of opportunity before the law, social, economic and political justice, and freedom of thought, expressions, belief, faith, worship and association, subject to law and public morality;
. . . [and] adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes⁷¹

Unfortunately, the constitution also restricted the participation of minorities in the highest government offices, and subsequently Pakistan restricted minority electoral rights, established blasphemy laws, and established Sharia Islamic Law as applicable to all citizens.⁷² By these measures, combined with an attitude of impunity in regard to religious persecution and violence, Pakistan has abandoned the principles espoused by its early leaders. However these words from the Pakistan Constitution of 1973 can be “the means through which reconciliation and the restoration of trust can be re-established in Pakistan today.”⁷³

⁶⁷ Randolph Marshall Bell, President, First Freedom Ctr., Minority religious communities at risk abroad, Panel Discussion (June 15, 2011).

⁶⁸ Letter from Jubilee Campaign, Advocates International, & American Center for Law and Justice to Ambassador Husain Haqqani, Embassy of Pakistan (Aug. 17, 2009) (on file with author). [*hereinafter* Letter to Ambassador Husain Haqqani].

⁶⁹ Felix, *supra* note 16, at 8-14, 22-23.

⁷⁰ *Id.* at 58.

⁷¹ Pakistan Constitution. 1973, pmbl. (emphasis added).

⁷² See, Felix, *supra* note 16, at 29-32; Religious Liberty Partnership, *supra* note 17, at 156.

⁷³ Letter to Ambassador Husain Haqqani, *supra* note 66 at 1.

In order to restore public peace and order Pakistan's governing instruments must follow the lead of its founders and of those heroes who have given their lives in the fight to bring religious freedom, equality, and the rule of law to Pakistan. The government of Pakistan must reverse this culture of impunity and religious persecution by actively pursuing, prosecuting and punishing cases of mob violence and assassinations; establish a policy of transparency in regard to reports and prosecutions on such incidents; abolish and repeal all blasphemy laws and other discriminatory laws and constitutional sections; and adopt international standards of freedom of religion and conscience.

The failure of the Pakistani government to properly investigate and prosecute cases of persecution, murders, and mob violence against Christians and other religious minorities must cease. Pakistan must train their judicial and law enforcement systems to take reports of crimes committed against minority communities seriously. Currently, "[t]he minorities must struggle and obtain the help of NGOs . . . just to obtain the registration of [first incident reports] . . ." ⁷⁴ Federal and local police must be instructed to file reports and thoroughly investigate these cases. They must also stop releasing perpetrators and dropping charges against them. Often "[t]he victims are badgered or bribed into agreeing not to testify against those responsible for instigating the mob violence – a crime in itself under Pakistan law that is rarely investigated or enforced against those who unlawfully lie or bribe their way out of justice." The government should not only prosecute the perpetrators for violence against minorities, but also for attempting to bribe officials and victims. Furthermore, any official who accepts or offers a bribe and refuses to execute proper justice should be severely punished or removed from their post, especially in the case of the judiciary.

It is not enough, however, to simply investigate and prosecute these cases. "To stop the cycle of mob violence and restore public order, transparency in the arrest, conviction, and punishment of perpetrators is essential." ⁷⁵ One group of human rights advocacy organizations has called for "public transparency regarding the arrests and prosecution of the perpetrators of the mob violence, . . . and publication of the findings and recommendation of any judicial or other commissions established to investigate and make recommendations for the prevention of such incidents in the future" ⁷⁶ They have urged the government of Pakistan to make all "incident reports and judicial inquiry reports . . . public. . . . Such reports are important to bring transparency to the justice process and restore public confidence in the government['s ability and willingness] to bring justice." ⁷⁷

⁷⁴ Letter to Ambassador Husain Haqqani, *supra* note 66, at 2.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

The recent tragic deaths of two government officials who were assassinated for their stances on religious liberty, protection of minorities, and the abolishment of blasphemy laws offers Pakistan an opportunity to reverse the message of impunity that has become engrained within their society. These high profile cases should be thoroughly and publicly investigated and the perpetrators brought to justice. The Religious Liberty Partnership has called for the Pakistani government to “establish a judicial inquiry into the murders of Shahbaz Bhatti and Salman Taseer and to release and publicize the resulting report, release and publicize prior investigative reports of anti-Christian violence, and follow up previous Federal level requests to the Punjab government for this information.”⁷⁸ The government should make it clear that this kind of prosecution will be the norm, not only for violence against public officials and champions for change, but also for any violence against religious minorities or blasphemy suspects.

Furthermore, the blasphemy laws and other discriminatory laws should be abolished. As we have seen, the blasphemy laws are “used with deliberate and malicious intent”⁷⁹ not only against Christians, but other religious minorities and members of the Muslim majority. The government of Pakistan should

work towards abolishing the blasphemy laws and, until they are abolished, to expeditiously pass . . . measures to prevent the misuse of these laws, such as procedural and evidential safeguards for the accused, consideration of the question of intent, penalties for false accusations, as well as support and protection for those who defend or support victims of blasphemy laws.⁸⁰

The track record in Pakistan and other countries that have tried to enforce blasphemy laws has led to the destabilization of society including, “mob violence, bribery, lying, injury to police and property, injury to members of the majority or state-established religion, violation with impunity of the religious liberties of the adherents to the minority religions”⁸¹ The abolition of these laws and other constitutional and statutory provisions discriminating against minorities in the political and social spheres should also be repealed as they only cause tension and discord instead of reconciliation and peace.

Finally, the government of Pakistan should actively “implement international standards of non-discrimination based on race, religion, and gender, found in Article 2 of the Universal Declaration of Human Rights, the ICCPR [the International Covenant on Civil & Political Rights], and other U.N. instruments.”⁸² Pakistan is signatory to

⁷⁸ Religious Liberty Partnership, *supra* note 17, at 156.

⁷⁹ Felix, *supra* note 16, at 58.

⁸⁰ *Id.*

⁸¹ Letter to Ambassador Husain Haqqani, *supra* note 66, at 2-3.

⁸² Religious Liberty Partnership, *supra* note 17, at 157.

the ICCPR and otherwise bound by U.N. documents, but clearly the rights of their people are not being protected as called for by these international laws. The Religious Liberty Partnership has called on Pakistan not only to implement these laws but also to “remove [their] reservations to the . . . ICCPR.”⁸³ The government of Pakistan should actively promote the protection of all minorities by publicly denouncing all mob violence, persecution, and discriminatory action. In promoting these ideals, they should make it clear to the people that religious intolerance and persecution harms the majority as well as the minority and that it is in the best interest of their society as a whole to allow for freedom of religion and protection of minorities.

5. Conclusion

The widespread culture of impunity in Pakistan has led to the destabilization of society and the abandonment of the rule of law. Blasphemy laws have devolved into an excuse for persecuting minorities and taking revenge on social rivals. The systematic impunity within Pakistan regarding religious violence and the misuse of the law has become a license to pillage, plunder, rape and kill. When perpetrators go free and victims are ignored, violence, instead of law, becomes the foundation of a society. The rule of law has grown weaker and the judicial system has become a tool of repression instead of an instrument of justice. In the long run, discrimination, mistreatment, and denial of justice to one group always create the capacity to deny justice to all.

For Pakistan to move forward, change is necessary. The citizens of Pakistan, whether Muslim, Hindu, Ahmadi, or Christian must all come together and realize that this culture of impunity is a cancer on their nation’s stability which threatens them all. The government of Pakistan must reform its legal system, for without public confidence in its strength and impartiality, an increasing number of people will give way to hopelessness and violence, further destabilizing Pakistani society. The impunity which has been perpetuating this cycle of violence must end so that reconciliation and restoration may begin.

Recommendations for further reading

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