

**Muslims for Progressive Values (MPV) Stakeholder
Submission to the Universal Periodic Review (UPR) of the
Islamic Republic of Pakistan**

Author: Omair Paul

Photo Credit: Abid Nawaz, The Express Tribune



MUSLIMS FOR
PROGRESSIVE VALUES



Headquarters Contact Information:

Muslims for Progressive Values
1626 N. Wilcox Ave, Suite 70
Los Angeles, CA 90028
United States of America
+1 323 696 2678
info@mpvusa.org

Submission Details:

Session: 28th Session, November 6 -
17, 2017
Date of Submission: 30 March 217
Total Words: 1965/2815

About MPV

Founded in 2007 and headquartered in Los Angeles, California, MPV is a grassroots faith-based, human rights organization that advocates for inclusive and egalitarian narratives of Islam, gender equality and women's empowerment, the human rights of LGBTI demographics, freedom of expression, and freedom of and from religion or belief. MPV operationalizes its advocacy campaigns by creating inclusive spaces for critical analysis of religious discourses and scripture, engaging policy processes at the national and global levels, facilitating expression through the arts, and grassroots social activism. MPV acquired Department of Public Information affiliation with the UN in 2013.

Executive Summary

The criminalization of actual or perceived acts of blasphemy are without exception counter-intuitive to any state's obligation to respect, protect, and fulfill the rights to freedom of thought, conscience and religion, and freedom of expression as provisioned by articles 18 and 19 of the ICCPR, respectively. Furthermore, as a faith-based human rights organization, MPV affirms that criminalization of blasphemy and apostasy are contradictory to the Quranic mandate of "no compulsion in religion" (verse 2:256), which safeguards freedom of conscience.¹²

The Government of Pakistan (GoP) ratified the ICCPR on 23 June 2010, and submitted a communication to the Secretary-General on 20 September 2011 stating "that it had decided to partially withdraw the reservations, made upon ratification, to articles [18 and 19] of the Convention."³ Despite these commitments, legal and institutional obstacles continue to prevent the GoP from achieving and sustaining its human rights obligations regarding freedom of religion and belief and freedom of expression, particularly as these obligations pertain to the rights of religious and ethnic minorities.

As such, this submission will address the legal, institutional, and social realities regarding how violations of articles 18, 19, and 27 of the ICCPR emerge when individuals accused of blasphemy are tried under certain provisions of the Pakistan Penal Code. In some cases, violations manifest against accused individuals as violence and persecution carried out with impunity by non-state actors. In the most extreme cases, accused individuals and other individuals associated with them have been murdered.

Criminalization of Blasphemy and Non-Conforming Religiosities

I Legal and Institutional Realities:

¹ MPV Position Statement on Apostasy and Blasphemy: <https://static1.squarespace.com/static/eca4b01593abadc441/t/55199cd8e4b0ac69ef716d98/1427741912941/MPV-PositionStatement-on-Apostasy-and-Blasphemy-Final.pdf>

³ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&clang=_en#36, see endnote 36 for Pakistan

I.I Section XV of the Pakistan Penal Code (PPC),⁴ dealing with “offenses related to religion”, in particular § 295-A, § 295-C, § 298, and § 298-A, explicitly criminalize any act, “by words, either spoken or written”, construed as insulting the “religious feelings of any class of the citizens of Pakistan”, defaming “religion or religious beliefs”, or “defiling the sacred name of the Holy Prophet Muhammad” (the sentence for this being capital punishment, though such sentences have never been implemented). It is understood that the terms “religion” and “religious beliefs” in these clauses *de facto* refer to Islam or the beliefs held by Sunni Muslims.

I.II While respect for religion and religious feelings is a virtue characteristic of pluralistic and democratic societies, and understanding that the right to exercise freedom of expression bears with it special responsibilities and duties, the threshold for what acts may constitute “deliberate and malicious intention”⁵ against Islam or the Holy Prophet as per the clauses highlighted above is undefined and thus *de facto* minimal. This grants legal validity to accusations of blasphemy for numerous activities— including, inter alia, critical analysis of Quranic scripture, creative religious expression, investigative journalistic pursuits for truth, promotion of free thought, secularism, and humanism, and even political dissidence and financial disputes—which are fundamentally not blasphemous in nature.

I.III In this vein, proof of intent that an alleged blasphemer deliberately and maliciously sought to insult Islam or defame the Prophet is also very minimal. In most cases, an allegation that an individual committed an act of blasphemy is all that is required for a sentence to be administered via what is often an unfair court proceeding influenced by the coercive tactics of *mullahs*, or Muslim community religious officials.⁶ This violation of the alleged individual’s right to due process and a fair trial is compounded by the fact that some courts refer cases of blasphemy to Sharia judges, which may further exacerbate legal discrimination amounting from judicial bias.⁷ Furthermore, there are no penalties for accusers who fabricate or falsify the details of a blasphemy allegation.

⁴ <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

⁵ *Ibid*, § 295-A

⁶ <http://freethoughtreport.com/countries/asia-southern-asia/pakistan/>, “The real victims of “blasphemy” laws: those who are accused”

⁷ *Ibid*, “Establishing “blasphemy” laws”

I.IV Blasphemy laws inordinately target religious and ethnic minority groups. One such religious minority group, known as “Ahmadis” or “Ahmadiyya”, who self-identify as Muslim and uphold the Quran as the source for their religiosity, are explicitly mentioned in Section XV of the PPC. § 298-B and § 298-C prohibit Ahmadis from self-identifying as Muslim and participating in Islamic culture and worship with a sentence of 3 years in prison and a fine.⁸ The societal ramification of such institutionalized discrimination is often much more egregious than the punishments provisioned by § 298-B and § 298-C; Ahmadis are often violently persecuted and sometimes murdered by non-state actors for exercising their freedom of religion and belief and freedom of expression and culture as a religious minority group.

I.V While apostasy is not explicitly criminalized and theoretically, conversion is possible, reports indicate the state reportedly hinders the process through administrative means such as refusal to alter religion on national identification cards.⁹ Reports also indicate that married Muslim couples who convert to another religion risk the state forcefully seizing custody of their children.¹⁰ Converts from Islam are also particularly susceptible to blasphemy laws, and women who convert to the religion of their spouses are particularly susceptible as their conversion may be deemed illegitimate and thus their “interfaith” marriage blasphemous.

II. Social Realities and Cases:

II.I Blasphemy legislation bolsters and sustains macrosystem societal attitudes of discrimination against religious and ethnic minorities. Such laws provide a legal and institutional platform for non-state actors to discriminate against religious and ethnic minorities. This is a particularly dangerous scenario in a state in which tensions between the predominantly Sunni Muslim population and minority groups—including Shia Muslims, Ahmadis, Sikhs, Hindus, Christians, Buddhists, and others—are often stoked by mainstream and state-funded Islamic institutions, clergy, and/or other religious actors who espouse and propagate an extreme and fundamentalist narrative of Islam that is often

⁸ <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>, § 298-B and § 298-C

⁹ <http://www.refworld.org/docid/510f8b832.html>, “3. Conversions from Islam to Minority Religions”

¹⁰ <https://www.state.gov/documents/organization/208650.pdf>, p. 7

accompanied with Muslim-centric nationalist discourses that revere rigid Pakistani religious uniformity.

II.II As aforementioned, allegations of blasphemy are often invoked against individuals who have or are currently engaged in a civil, political, economic, social, or cultural dispute with a particular plaintiff or group of plaintiffs. Such abuse of blasphemy laws and the lack of state-authority inquiry processes was a hallmark of the blasphemy allegations made against Aasiya Noreen, commonly known as “Asia Bibi”, who was accused by coworkers and neighbors of defaming the Prophet after a dispute emerged over her consumption of drinking water using a utensil that was reserved for Muslim women. One of her neighbors, with whom her and her family had an ongoing feud with regarding property damage, reported Aasiya to her co-workers.¹¹ Aasiya has been on death row since 2010, and after a series of failed and delayed appeals and 6 years in solitary confinement suffering abuse at the hands of prison guards, Aasiya remains in prison in Lahore as the Pakistan Supreme Court in October 2016 was forced to set a new date to hear her appeal after a judge recused himself from the bench that would have presided over the appeals proceeding.¹² Pakistan Interfaith League (PIL)

Chairman Sajid Ishaq stated: “...now that the case is before the highest judicial forum of the country, it is imperative that the government enforces its writ and take action against religious groups which are intimidating the judiciary and the government with threats of violent protests and ‘serious consequences.’”¹³

II.III Not all cases of blasphemy receive the attention that Aasiya’s case received. The International Humanist and Ethical Union (IHEU) listed at least 11 cases of blasphemy charges against predominantly Christian religious minorities from 2013 to 2016 in its 2016 Freedom of Thought Report on Pakistan,¹⁴ though there are likely many more that do not receive any media coverage. Additionally,

¹¹ <http://www.spiegel.de/panorama/gesellschaft/pakistan-eine-ziege-ein-streit-und-eintodesurteil-a-729847.html>

¹² <http://www.aljazeera.com/news/2016/10/pakistan-delays-asia-bibi-blasphemyappeal-161013050644760.html>

¹³ <http://morningstarnews.org/2016/10/pakistan-supreme-court-delays-ruling-on-asia-bibi-case-as-islamist-pressures-mount/>

¹⁴ http://freethoughtreport.com/countries/asia-southern-asia/pakistan/#Constitution_and_government

many individuals who face allegations of blasphemy are extrajudicially murdered by non-state actors before their trials conclude.

II.IV In one case, a 9-year old boy and his mother were jailed and sentenced to death over false accusations that they burned the Quran (they were subsequently released). In another case, a 16-year old boy named Nabeel Chohan was charged with blasphemy for “liking” what some construed as an offensive picture of the Ka’aba in Mecca on Facebook. Both cases occurred in 2016, and Nabeel is currently awaiting trial.¹⁵

II.V Resorting to social media to identify those engaged in alleged blasphemous content is emerging as a practice among state and non-state officials. In fact, in March 2017, it was reported that the GoP is now requesting social media platforms including Facebook and Twitter to assist it in identifying “Pakistanis, either within the country or abroad, who recently shared material deemed offensive to Islam.” The GoP would consider extraditions for those Pakistanis accused of blasphemy who live abroad, and has already identified 11 people for questioning.¹⁶

¹⁵ Ibid.

¹⁶ <https://www.theguardian.com/world/2017/mar/17/pakistan-asks-facebook-twitter-help-identifyblasphemers>

Conclusions and Recommendations

MPV wholly denounces and condemns the criminalization of blasphemy as per clauses § 295-A, § 295-C, § 298, § 298-A, § 298-B and § 298-C of Section XV of the PPC.

These laws enable and sustain atmospheres of discrimination, social exclusion, and civil disorder, and authorize the legal and often baseless persecution of religious and ethnic minorities with little to no proof required. Furthermore, these laws embolden nonstate actors to violently persecute religious and ethnic minorities with impunity.

Recalling articles Art. 2, 18, 19, and 27 of the ICCPR, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55), and Human Rights Council Resolution A/HRC/RES/16/18 on Combating Intolerance, Negative Stereotyping and Stigmatization of, and Discrimination, Incitement to Violence and Violence against, Persons Based on Religion or Belief, MPV implores the Islamic Republic of Pakistan to respect, protect, and fulfill its human rights obligations under international human rights law, and recommends the state:

1. Ratify the Optional Protocol to the ICCPR;
2. Ratify Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty;
3. Respect, protect, and fulfill in full the provisions of the ICCPR, noting specifically articles 2, 18, and 27, and withdraw in full any reservations that may inhibit the GoP from fulfilling its obligations as prescribed by any article of the Covenant;
4. Repeal § 295-A, § 295-C, § 298, § 298-A, § 298-B and § 298-C and other clauses of Section XV of the Pakistan Penal Code and pardon all those accused of blasphemy under this section in line with international human rights obligations;
5. Integrate the civil, political, economic, social, and cultural rights of religious and ethnic minority groups within legal and judicial institutions at the federal, provincial, and municipal levels, in line with the provisions of the Constitution of Pakistan and international human rights obligations;
6. Overhaul Islamic curriculum in primary and secondary state schools that may promote cultural and social marginalization of religious and ethnic minorities, and endorse curriculum that promotes a culture of peace and plurality;

7. Encourage religious institutions and actors that receive state funding to promote inclusive and egalitarian narratives of Islam through critical analysis of Quranic scripture following the example of Morocco's High Religious Committee regarding apostasy and in partnership with progressive faith based organizations.
8. Support and purposefully engage in civil society campaigns that publicly advocate for and disseminate egalitarian, inclusive, and peaceful analyses of theological literature and scripture.