



General Assembly

Distr.: General
7 June 2012

English only

Human Rights Council

Twentieth session

Agenda item 4

Human rights situations that require the Council's attention

Written statement* submitted by the Jubilee Campaign, a non-governmental organization 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.

[1 June 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Freedom of religion or belief in Pakistan**

Introduction

The Jubilee Campaign, together with Christian Solidarity Worldwide (CSW), seeks to draw the Human Rights Council's attention to the situation of human rights and freedom of religion or belief (FoRB) in Pakistan. Among other international human rights treaties, Pakistan has ratified the International Covenant on Civil and Political Rights (ICCPR) which provides for FoRB and for the rights of minorities. There remains a large gulf between official government assurances about religious minorities in Pakistan, and the daily reality facing these groups in society. Recurring issues include false blasphemy accusations and related violence, the abduction and forced conversion of non-Muslim women and girls, impunity for those targeting minorities, and discrimination in employment and education. At present the state is neither preventing nor punishing violations of the law, while the loudest, most aggressive voices of extremism intimidate and sideline other claims to free expression and debate.

Constitutional and legislative framework

Article 20 of the Fundamental Rights Chapter of Pakistan's Constitution provides in part for FoRB. This chapter also offers safeguards against people being expected to make payments for religious purposes outside their own faith (article 21); against religious compulsion or discrimination within the education system (article 22); and against discrimination concerning access to public places (article 26) and public services (article 27). In contrast, articles 41(2) and 91(3) of the Constitution specify that both the President and Prime Minister of Pakistan must be Muslim, thereby excluding religious minorities from the highest levels of government. Pakistan has sought to uphold this in a reservation entered upon ratification of the ICCPR.

Article 36 includes a principle of policy on the protection of minorities: "The state shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services." It is concerning that this principle uses the word "legitimate", rather than "equal".

The Constitution provides for a restricted form of freedom of expression in article 19, which is limited by "restrictions imposed by law in the interest of the glory of Islam". The ICCPR permits a number of specific restrictions on freedom of expression, but these do not extend to permitting the above limitation, which places non-Muslims at an automatic disadvantage. Moreover, the interpretation of such a provision is liable to vary according to the dominant Islamic theology at any given time.

Pakistan's blasphemy laws and anti-Ahmadiyya provisions are key concerns. Contained within section 295 of the Pakistan Penal Code (PPC), the so-called "blasphemy laws" criminalise insults against religion. Most problematic are sections B and C, which address defilement of the Qur'an and insults against the Prophet Mohammed, punishable by a life imprisonment and the death penalty respectively. They lack any definition of terms and ignore the question of intent. False accusations for personal motives can easily be registered, as evidential requirements are highly inadequate. Sections B and C conflict with the religious freedom provisions in the Constitution by protecting Islam above other religions, as well as stifling freedom of expression on religious topics.

** Christian Solidarity Worldwide, an NGO without consultative status, also shares the views expressed in this statement.

Article 260(3) of the Constitution has since 1974 defined the term “Muslim” in a way which explicitly excludes Ahmadis. Since 1984, this has been accentuated by “Ordinance XX”, which introduced sections 298B and C of the PPC, known as the “anti-Ahmadiyya laws”. These provisions criminalise basic manifestations of religion or belief as practised by Ahmadis, which are labelled as “anti-Islamic activities”. They are listed in the same chapter of the PCC as the blasphemy laws and are in direct conflict with the fundamental rights to equality and freedom of religion guaranteed in the Constitution. Social prejudice against Ahmadis is legitimised by the state’s overtly anti-Ahmadiyya stance expressed in these provisions.

Freedom of religion or belief

The last three years have seen an increase in religiously-motivated violence in Pakistan targeting both non-Muslim and Muslim minorities. In 2010, Shia and Sufi Muslim sites were attacked, including the popular Data Darbar shrine in Lahore. Ahmadi Muslims continued to be openly discriminated against and singled out for targeted killings by non-state actors. At least 99 Ahmadis were killed for their faith in 2010, the majority in May, after simultaneous suicide bombings at two mosques in Lahore.

There exist deeply-rooted problems in the police service, prisons, judiciary and court system alike, including the susceptibility of district level staff to bribery or intimidation, and inadequate knowledge of the law. Discrimination against religious minorities on the part of state officials results in extremely limited access to justice for non-Muslims.

Converts to Christianity are often extremely vulnerable, finding police and local authorities on the side of those perpetrating violence against them.

The abduction, forced marriage and forcible conversion of Christian and Hindu women and girls has gained frequency in the past year, with perpetrators increasingly emboldened by the relatively low likelihood of conviction. The prevalence of abduction and rape of low caste Hindu women in interior Sindh and southern Punjab is a grave problem and is particularly acute among those living in extreme poverty.

Pakistan’s blasphemy laws have long been a serious cause for concern. Little has been said publicly on the issue since the assassinations of Salmaan Taseer, Governor of Punjab, and Shahbaz Bhatti, Federal Minister for Minorities Affairs, in early 2011, but the frequency of new cases is not decreasing and many in minority communities live in fear of their lives being destroyed by a blasphemy accusation. In numerical terms, the majority of the victims are Muslim; however religious minorities represent a disproportionate percentage and are more likely to experience violence following the accusation.

The continuing risks faced by human rights activists, lawyers and judges dealing with blasphemy cases were highlighted after the judge who convicted Salmaan Taseer’s self-confessed killer in October 2011 was forced to flee the country following credible public threats against him and his family. The Pakistani state is yet to take a strong stance against threats of this kind and those propagating messages of hate do so with impunity.

Discrimination and disinformation about religious minorities in the national education curriculum has been highlighted as a root cause of the increasingly negative perceptions of these groups by the majority, including the view that non-Muslims are not Pakistani citizens. An overhaul of key textbooks and discriminatory practices has long been recommended and progress in this area varies according to the stance of each provincial authority.

Disproportionately high poverty and illiteracy levels add to the disempowerment of Christian and Hindu communities, leaving them more susceptible to abuse and less able to secure justice or compete on equal terms with other Pakistani citizens.

Recommendations

To recommend that Pakistan:

- Accede to the Rome Statute of the International Criminal Court;
- Extend a standing invitation to all UN Special Procedures, acknowledge and accommodate existing requests for invitations, and promptly respond to outstanding correspondence from Special Procedures mandates;
- Prioritise the swift prosecution and deterrence of hate speech and incitement to violence, implementing and strengthening existing legislation on hate speech and mosque loudspeaker use;
- Strengthen the rule of law and protection for minorities and other vulnerable groups through substantive measures, including conditions of fair trial, police protection for witnesses, judges and lawyers in blasphemy cases, a courtroom police presence to deter mob intimidation, and reform of the Criminal Procedure Code in support of the above and in the interests of expediting justice;
- Repeal the blasphemy laws and, until that time, fulfil earlier commitments to review the legislation, reopening the debate with emphasis on their misuse, and highlighting their potential threat to citizens of all faiths;
- Bring sections 298B and C of the PPC in line with its constitutional and international commitments to FORB and, until that time, ensure that both the prevention and investigation of attacks on this community are strengthened;
- Cultivate a safe environment for those engaging in public debate on the blasphemy laws and anti-Ahmadiyya provisions;
- Positively promote religious freedom within its civic institutions (including the education system) and publicly combat the disinformation spread by those who support discriminatory laws;
- Accelerate and prioritise reform of the national school curriculum to eliminate discriminatory teaching materials and practices; emphasise Jinnah's founding vision for Pakistan and the positive contributions made by religious minorities to the country;
- Bring to justice the murderers of Shahbaz Bhatti, under conditions of fair trial, and provide long-term security measures for the lawyers and judges involved both in this case and in the appeal case pertaining to Salmaan Taseer's murder;
- Highlight FORB and issues specific to minorities in human rights training initiatives with the police and judiciary, as proposed in the late Minister for Minorities Affairs' Minority Rights Awareness Programme;
- Implement the recommendations of the National Assembly's Standing Committee on Minorities from 2009 towards rendering the Commission for Minorities a more meaningful and accessible body, and facilitate the inclusion of minority concerns in broader state policy debates;
- Implement the National Commission for Human Rights Law (2012) and establish a meaningful, independent and authoritative commission, without restricting the activity of human rights NGOs.