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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on freedom of religion or belief; the Independent Expert on minority issues; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: AL G/SO 214 (56-23) Minorities (2005-4) G/SO 214 (53-24)
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Independent Expert on minority issues; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolution 22/20, 16/6, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received regarding the **detention on blasphemy charges and alleged torture of Mr. Hamid Hussain in Pakistan.**

According to the information received:

On 29 December 2011, a First Information Report (FIR) was lodged against Mr. Ghulam Ali, Mr. Muhammad Saleem and Mr. Jameel Ahmed on blasphemy charges under sections of 285-A, 298 A and 34 of Pakistan's Penal Code (PPC), for publishing and distributing a booklet against the "holy personages and companions (Sahaba) of the Holy Prophet."

On 21 March 2012, at 2.30 a.m, Mr. Hamid Hussain, a 25-year old Shia Muslim, was arrested from his house in connection with this case. Although Mr. Hussain was not mentioned in the FIR, he was reportedly arrested after the authorities found his former cell phone number on the aforementioned booklet. Mr. Hussain's father's, Mr. Imran Liaquat Hussain, was not given the reasons of his son's arrest.

According to the information, Sub-Inspector Ghulam Ali Marwat, who was appointed investigation officer, requested Mr. Hussain's parents to pay Rs. 2.5 million to avoid having their son implicated in blasphemy charges based on him belonging to the Shia community and that the booklet was offensive to Sunnis.

Having failed to agree, the Sub-Inspector reportedly implicated Mr. Hussain in the case adding his name as a supplementary accused person in the FIR.

After his arrest, Mr. Hussain was allegedly locked up in a police station 20 kilometers away from his house, where he was tortured the entire night and forced to confess that he was involved in publishing the booklet. Mr. Hussain was subsequently kept in police custody for 10 days where he was allegedly again tortured in order to get a confession from him. One night he was reportedly kept in an unknown place and tortured by persons other than the police. It is believed that he was subsequently sent back to the police jail due to his father, a lawyer, pursuing the case. After being placed on judicial remand, Mr. Hussain was sent to the Karachi Central Prison and kept for many days in a five-by-five feet isolation ward, where he was not allowed to receive any visitors.

The case against Mr. Hussain is currently under trial before the Anti-terrorism Court (ATC). It is reported that the three accused persons at no time in the investigation gave Mr. Hussain's name. Alleged witnesses of the case have also failed to identify Mr. Hussain as a co-offender on blasphemy charges. They have allegedly clearly stated before the ATC that they do not know Mr. Hussain and have never met him. It is further reported that Mr. Hussain's father received threats from the police and extremists and that to date lawyers have refused to take up Mr. Hussain's case for fear of reprisals from extremist groups. Mr. Hussain's father died in March 2013 and his mother, Ms. Farhana Hussain, is now pursuing this case.

Members of Mr. Hussain's family have reportedly accused the Judge of the ATC, Mr. Ghulam Mustafa Memon, for allegedly demanding that they pay Rs 1 million to obtain his exoneration from the charges of blasphemy. They have further reported that his family has to pay Rs. 25000.00 every month to the Landhi prison authorities for "his protection" and to "save him from mental torture". Mr. Hamid Hussain suffers from heart disease.

Serious concern is expressed that Mr. Hamid Hussain's detention on blasphemy charges may be connected to his religious affiliation as a member of the Shia community. Further concern is expressed that Mr. Hussain may have been subjected to torture and solitary confinement while held in detention at various locations in Pakistan.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification on the information drawn to our attention and share our concerns in relation to the present circumstances in light of the applicable international human rights norms and standards.

We would also like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief of Mr. Hamid Hussain in accordance with article 18 of

the Universal Declaration for human Rights and the International Covenant on Civil and Political Rights, which your Excellency's Government has ratified on 23 June 2010.

Furthermore, we would like to recall to your Excellency's Government the principles set forth in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief. Article 6 (d) of the Declaration provides that the right to freedom of thought, conscience, religion or belief includes the freedom 'to write, issue and disseminate relevant publications in these areas.'

In addition, we wish to draw the attention of your Excellency's Government to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1.1 of the Declaration provides that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity". Article 4.1 of the Declaration also establishes that: "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law."

Moreover, we would like to call the attention of your Excellency's Government to Article 12 of General Assembly resolution 66/168, of 11 April 2012, which urges States "(b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty and security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights", and (i) "to ensure that all public officials and civil servants, including members of law enforcement bodies, and personnel of detention facilities, the military and educators, in the course of fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate awareness-raising, education or training is provided".

We would like to draw your Excellency's Government's attention to paragraph 7 (b) of Resolution 8/8 of the Human Rights Council, which stated that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture;"

We would also like to draw the attention of your Excellency's Government to article 15 of the CAT, which provides that, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

We also recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States “To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of Mr. Hamid Hussain in compliance with the mentioned international instruments.

Moreover, since it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Have complaints been lodged by or on behalf of Mr. Hamid Hussain?
3. Please provide details, including the legal basis and reasons, regarding the arrest and detention of Mr. Hamid Hussain and how these measures are compatible with the aforementioned international human rights norms and standards.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please indicate what measures have been taken by your Excellency’s Government to protect the life and security of Mr. Hamid Hussain, members of his family and/or any persons involved in pursuing his case before the courts.
6. Please indicate what measures have been taken by your Excellency’s Government to respect and protect the freedom of religion or belief of all persons in Pakistan, including members of the Shia community.

We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Hamid Hussain

are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

IZSÁK Rita
Independent Expert on minority issues

Juan E. Méndez
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