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

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandates of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief;
and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE: UA G/SO 218/2 G/SO 214 (56-23) G/SO 214 (33-27)
PAK 3/2012

22 March 2012

Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 14/11, and 17/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the death sentences of Mr. **Muhammad Ishaq** and Ms. **Asia Bibi** for blasphemy. The case of Ms. Bibi was already the subject of a joint urgent appeal we sent on 22 November 2010 (see A/HRC/16/53/add.1, case no. PAK 15/2010) to which your Excellency's Government acknowledged the receipt of the joint urgent appeal. We regret that we are yet to receive a reply from your Excellency's Government since then.

According to the information received:

Case of Mr. Muhammad Ishaq

A district court in Punjab province recently upheld Mr. Muhammad Ishaq's death sentence to which his lawyer is seeking to appeal the decision to the Lahore High Court. In July 2009, Mr. Ishaq has been sentenced to death for blasphemy in Pakistan (section 295-C of the Pakistan Penal Code). Mr. Ishaq is a Pakistani man who has lived in New York State in the USA for around 30 years and he is a patron of Talagang's Sufi Pir Faisal Shah shrine. He was accused by a man known as Asadullah of claiming to be a messenger of God and getting local people to worship him when he was visiting the Talagang.

His case was transferred from Chakwal District court to a court in neighbouring Jhelum District which eventually found Muhammad Ishaq guilty of blasphemy. He was refused bail by successive courts, including the Supreme Court, and he has been in prison since the accusations were brought over three years ago.

Mr. Ishaq maintains that he never asked his followers to worship him, nor did he claim to be a messenger of God. He also denies the charges of blasphemy. Mr. Ishaq believes that members of a rival faction brought the charges in an attempt to take control of the Pir Faisal Shah shrine.

Case of Asia Bibi

Ms. Asia Bibi was sentenced to death on blasphemy charges on 7 November 2010 (section 295-C of the Pakistan Penal Code). Ms. Bibi is a mother of five young children, who had been working as a farmhand in fields with other women from the village of Ittanwali in Sheikhpura. She was told to fetch drinking water while some of the other women – all Muslims – refused to drink the water as it had been brought by a Christian and was therefore “unclean”.

Reportedly, a Muslim mob, including clerics, asked for Ms. Bibi to be killed because she had spoken ill of the Prophet Mohammed. Ms. Bibi has appealed against the court decision but her trial allegedly will not take place for another two years.

Without expressing at this stage an opinion on the facts of the cases, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) ratified by Pakistan on 23 June 2010 .

We also 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 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. Ishaq and Ms. Bibi in accordance with article 18 of the UDHR and of the ICCPR. In this context, we would also like to refer to Human Rights Council resolution 6/37, in which the Council urges States “to take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities”. The General Assembly, in its resolution 64/164, urges States “to ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one's religion, including the right to change one's religion or belief, is violated”. In the same resolution, the General Assembly urges States “to ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief [...] and to bring to justice all perpetrators of violations of these rights”.

We would also like to refer to pertinent observations made by previous Special Procedures mandate-holders who reiterated that criminalizing so-called defamation of religions as such can be counterproductive and may have adverse consequences for members of religious minorities, dissenting believers, atheists, artists, and academics (see A/62/280, paras. 70-71 and 76-77). In his country visit report on Pakistan, the then Special Rapporteur on freedom of religion or belief, Mr. Abdelfattah Amor, stated that “applying the death penalty for blasphemy appears disproportionate and even unacceptable” (see E/CN.4/1996/95/Add.1, para. 82).

We would like to bring to the attention of your Excellency’s Government that, although the death penalty is not prohibited under international law, it has long been regarded as an extreme exception to the fundamental right to life. As such, it must be interpreted in the most restrictive manner and can be imposed only for the most serious crimes. In this respect, we would like to recall that article 6(2) of the ICCPR, provides that “in countries which have not abolished the death penalty”, the “sentence of death may be imposed only for the most serious crimes”. In interpreting article 6(2) of the Covenant, however, the Human Rights Committee has consistently rejected the imposition of a death sentence for offences that do not result in the loss of life, finding only cases involving murder not to raise concerns under the most serious crimes provision. The Special Rapporteur on extrajudicial, summary or arbitrary executions has observed in a report to the Human Rights Council, that “the conclusion to be drawn from a thorough and systematic review of the jurisprudence of all of the principal United Nations bodies charged with interpreting the most serious crimes provision, is that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill which resulted in the loss of life” (A/HRC/4/20, para. 53). This would exclude charges related to blasphemy from those for which the death penalty can be imposed under international law.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and that the death penalty is not imposed in their case and in any other blasphemy cases. 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.

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. Muhammad Ishaq and Ms. Asia Bibi in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the cases accurate?
2. Have complaints been lodged with regard to the court decisions of sentencing Mr. Ishaq and Ms. Bibi to death on blasphemy charges?

3. Please provide the details and where available, the results or reports, of any judicial investigation, in relation to these cases.

4. Please provide the current status of Mr. Ishaq and Ms. Bibi.

5. Please provide detailed information on how the detention and death sentence of Mr. Ishaq and Ms. Bibi; and the application of section 295-C of the Pakistani Penal Code is compatible with the international norms and standards on the rights to life and freedom of religion or belief.

6. Please indicate the measures taken by your Excellency's Government in ensuring the rights of Mr. Ishaq and Ms. Bibi to a fair trial and appeals are respected and protected.

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.

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

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Special Rapporteur on extrajudicial, summary or arbitrary executions