

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Independent Expert on minority issues; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

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

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: AL G/SO 214 (56-23) Minorities (2005-4) G/SO 214 (33-27)
PAK 2/2012

2 March 2012

Excellency,

We have the honour to address you in our capacities as Independent Expert on minority issues; 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 resolution 16/6, 14/11, and 17/5.

In this connection, we would like to bring to your Excellency Government's attention information we have received concerning **the killing of members of the Shia religious minority in Pakistan.**

According to the information received:

On 28 February 2012, an attack on a bus in Kohistan, northern Pakistan, left at least 18 Shia Muslims dead when attackers, allegedly in military fatigues, separated them from Sunni travellers and shot them at the roadside. The attackers are reported to have checked the identity documents of all the passengers before removing the Shias and shooting them by the side of the road.

In a previous incident on 17 February 2012, more than 30 people were killed or wounded when a suicide bomber exploded a bomb close to a mosque in a mainly Shia neighbourhood in the Kurram tribal region. It is reported that Shia communities believe that insufficient measures have been undertaken to protect them. Furthermore, militants accused of such attacks have been allegedly released from custody.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to take all necessary steps to ensure the life, security and rights of religious minorities in Pakistan.

The 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires under article 1.1 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.” In addition, article 4.1 of the Declaration 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.”

Furthermore, we would like draw the attention of your Excellency’s Government to article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency’s Government on 23 June 2010, providing that every individual has the inherent right to life, that this right shall be protected by law and that no person shall be arbitrarily deprived of his or her life. According to General Comment No. 31 of the Human Rights Committee, States have the positive obligations to protect individuals not only against violations of Covenant rights by their agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. There are circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights. This applies when a State Party permits or fails to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. In addition, Principle 9 on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions insists on the need to conduct thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions.

We would like to draw your Excellency’s Government’s attention to article 20 of the ICCPR, “[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

Article 2 (1) of the 1981 Declaration of the General Assembly also provides that: “[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.” Art. 4 (2): “All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.”

We would like to emphasize that the Commission on Human Rights resolution 2005/40 in para. 7 expressed concern at the persistence of institutionalized social intolerance and discrimination practiced in the name of religion or belief against many communities, in para. 8 urged States to step up their efforts to eliminate intolerance and discrimination based on religion or belief, notably by: “(a) Taking 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, [...] and in para. 9 recognized that the exercise of tolerance and non-discrimination by all actors in society is necessary for the full realisation of the aims of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and invites Governments, religious bodies and civil society to continue to undertake dialogue at all levels to promote greater tolerance, respect and understanding."

Commission on Human Rights resolution 2005/40 (paragraph 4 (f)) and Human Rights Council 6/37 (paragraph 9 (i)) urges States to ensure that on account of religion or belief "no one within their jurisdiction is deprived of the right to life, liberty, or security of person, [...] and to bring to justice all perpetrators of violations of these rights."

We note to your Excellency's Government that we intend to address these concerns in a press release today, a copy of which is attached, in advance of its general circulation to the media.

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, relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Have complaints been lodged?
3. What legislative and policy measures exist in order to ensure the security and rights of the Shia Muslims and other religious minorities in Pakistan?
4. Please indicate the remedy made available to the families of the victims.
5. What measures have been taken to investigate these cases and ensure accountability of any persons responsible? Please provide the details and where available, the results or reports, of any judicial investigation, or any criminal charges relating to these cases.
6. Please provide information on eventual measures taken to prevent a repetition of similar incidents.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration. We would appreciate an answer from your Excellency's Government within 60 days.

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

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