

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on freedom of religion or belief**

REFERENCE:  
AL PAK 2/2017

5 May 2017

Excellency,

We have the honour to address you in our capacities Special Rapporteur on extrajudicial, summary or arbitrary executions; as Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 26/12, 28/9, 25/2 and 31/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the killing of Mr. Mashal Khan, a 25-year-old journalism student at Abdul Wali Khan University in Mardan, at the hands of a mob numbering in the hundreds, after having been accused of "blasphemy"**.

According to the information received:

On 13 April 2017, at around 11.00 a.m. a mob of students and employees of Abdul Wali Khan University searched its premises for Mr. Mashal Khan while chanting religious slogans. After they found him in his room, the mob attacked, beat, stamped on and shot dead Mr. Khan before dragging his body, disrobed and covered in blood, through the hallway and onto a campus road.

It is reported that at least one video made using mobile phone cameras of the killing of Mr. Khan by the mob shows that students that were part of the mob attacked police officers at the scene. One civil society report on the events further indicated that police, who arrived at the scene after they had been alerted about the situation, claimed that there were too many people in the mob for them to intervene. Another report indicated, to the contrary, that police present at the scene did not intervene by choice.

A fellow journalism student, and acquaintance of Mr. Khan, was simultaneously attacked at a different location on University premises, and severely beaten before he managed to escape with assistance of local police and hospitalized.

According to witness statements and reports, the attacks on Mr. Khan and the other journalism student were prompted by accusations of "blasphemy". It is also reported that the morning of the attack, the assistant registrar of the University posted an official notice online suspending Mr. Khan from the University and barring him from its premises pending an investigation into allegations of

blasphemous activities. It is alleged that the “blasphemy” accusations followed to Mr. Khan’s criticizing of the University administration for its various shortcomings, including for abuse of authority.

A First Instance Report (FIR) of the killing of Mr. Khan was reportedly filed with the police in the Sheikh Maltoon neighborhood under, inter alia, section VIII covering offences against the public tranquility (articles 148 and 149), section XI covering offences relating to religion (article 297) and section XVI covering offences affecting life (article 302) of the Pakistan Penal Code along with section 7 of the Anti-Terrorism Act. It reportedly identifies 20 suspects, including University employees, students and a tehsil councilor.

This grave incident follows similar past incidents of vigilante killings of persons accused of “blasphemy”; to date some 65 killings of persons accused of “blasphemy” have occurred since 1990 at the hands of vigilantes or mobs in Pakistan.

Without making any judgment as to the accuracy of the information made available to us, we are extremely concerned over the killing of Mr. Mashal Khan and the attack on a fellow journalism student. We are also gravely concerned about the alleged accusation of “blasphemy” against Mr. Khan, which was merely related to his peaceful and legitimate manifestation of his thought, conscience and religion or belief. We are similarly concerned about the alleged accusation of “blasphemy” against the fellow journalism student, which was solely related to his acquaintance with Mr. Khan. We further express deep concern over the criminalization of blasphemy under Pakistan’s Penal Code that carries severe penalties, including life imprisonment and the death sentence, contrary to international human rights law and standards. Our concern in addition extends to the negative social attitudes that may be formed by the criminalization of blasphemy, which in turn may encourage and lead to vigilante attacks and killings. Moreover, we are seriously concerned by the prevailing impunity of the vigilante violence in the name of religion, targeting religious minorities, as well as increasing religious intolerance and incitement to hatred.

The above allegations appear to be in contravention of the rights of every individual to life and freedom of expression, freedom of religion and cultural rights as set out in articles 6, 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR), as well as article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As 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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information regarding the status of the investigations into the killing of Mr. Mashal Khan, including information on the entities or persons responsible for conducting the investigation, whether anyone has been arrested or prosecuted, and the status of any on-going trial.
3. Please provide information regarding measures taken to ensure the protection and security of Mr. Khan once the accusations of “blasphemy” were made, taking into consideration the known risk that such allegations produce.
4. Please also provide information on the status of investigations into above-mentioned previous killings in relation to “blasphemy” accusations that have taken place in Pakistan, including information on the entities or persons responsible for conducting the investigations, whether anyone has been arrested or prosecuted, and the outcome of any trial.
5. Please provide information on the number of persons prosecuted and convicted of vigilante violence in the name of religion and in response to allegations of “blasphemy”. Particularly, please provide information on steps taken by Your Excellency’s Government to protect judges and others from reprisals in cases involving vigilante violence in the name of religion.
6. Please provide information on the steps taken to prevent, investigate and stop the instigators of the vigilante violence, including religious or political leaders who call for violence and use their moral leadership to heighten a climate of intolerance and hatred.
7. Please provide detailed information about the measures taken to effectively protect the freedom, and ensure the safety of individuals, in particular minority groups, who publicly manifest their views or dissenting opinions on religious matters according to international standards.
8. As a lead State behind Resolution 16/18 and the Istanbul Process, could you please elaborate on the steps taken by Pakistan to promote tolerance and combat incitement to violence, and violence against persons based on religion or belief? Could you also please elaborate on the steps taken to repeal the blasphemy law and to impose, as a first step, a moratorium on the use of death sentences in such cases?
9. Could you please provide information on the steps taken by your Excellency’s Government to combat fundamentalist and extremist

attitudes of the kind that resulted in the death of Mr. Khan, including through policies that combat discrimination in the right to take part in cultural life, to manifest one's religion or belief, or promote freedom of expression, education and academic freedom in accordance with international human rights norms?

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent the reoccurrence of the alleged violations and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for them. These interim measures should include the abrogation of the blasphemy law in its entirety, particularly the controversial sections A, B and C of Section 295 and sub sections A and B of Section 298 of the Pakistan Penal Code, which contravene international norms with the maximum penalty of life imprisonment, or even the death penalty.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Karima Bennoune  
Special Rapporteur in the field of cultural rights

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Ahmed Shaheed  
Special Rapporteur on freedom of religion or belief

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we wish to draw the attention of your Excellency's Government to the applicable international human rights law and standards:

#### *The right to life*

Article 6(1) of the ICCPR, ratified by Pakistan on 23 June 2010, provides that “every human being has the inherent right to life [which] shall be protected by law. No one shall be arbitrarily deprived of his life.” This right is similarly guaranteed by article 3 of the Universal Declaration on Human Rights (UDHR). Article 9 of the Constitution of Pakistan reflects the language of article 6(1) ICCPR and provides that “No person shall be deprived of life or liberty, save in accordance with law.”

As stated by the Human Rights Committee in its General Comments 6 and 31, the inherent right to life guaranteed by article 6(1) ICCPR must not be narrowly interpreted and includes the obligation of States to adopt positive measures to protect the right to life of individuals, and to prevent, investigate, prosecute and punish perpetrators, and redress the harm caused by State and non-State actors. The latter category, according to international human rights standards, includes private individuals where there is a pattern of killings as appears to be the case in the killing of Mr. Kahn. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR (General Comment 31, para. 15).

The State also carries a responsibility to address “attitudes or conditions within society which encourage or facilitate” violence or killings committed by non-State actors (see E/CN.4/2005/7, para. 71). This is so because criminalization of acts leads to the social stigmatization of those accused and to the perception that the killings of the accused are legitimate. This responsibility is particularly heightened if the criminalization of the act in question violates international human rights principles, just as the criminalization of blasphemy does. We therefore reiterate our above call to abrogate the blasphemy law in its entirety.

Moreover, considering that allegations of blasphemous activity have repeatedly led to violence and killings in Pakistan, thus constituting a pattern, the State ought to have predicted that allegations of “blasphemy” targeting Mr. Mashal Khan, particularly when supported by public bodies such as Abdul Wali Khan University, were likely to constitute a real and imminent risk of violence against him. Therefore, the authorities had a heightened responsibility to take all appropriate measures to respond to and prevent the violence targeting Mr. Khan as well as the other student.

In the specific case of demonstrations, the principle of precaution “arguably entails adhering to the standards on the facilitation and control of demonstrations to prevent volatile situations from escalating” (see A/HRC/26/36, para. 51). To this effect,

“an increasing body of knowledge is available on how crowds can be handled in ways that can defuse as opposed to escalate the tension, and it is the responsibility of the commanding leadership of law enforcement to ensure that this knowledge is used in the planning, preparation and concrete policing of assemblies. Failure to take note of such information and repeating the mistakes of the past with deadly consequences run contrary to the duty to protect life, and would have to be considered a failure in command responsibility” (ibid. para. 52).

In addition, in relation to the Pakistani blasphemy law, particularly the controversial sections A, B and C of Section 295 and sub sections A and B of Section 298 of the Pakistan Penal Code, with the maximum penalty of life imprisonment, or even the death penalty, we would like to recall 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. Article 6(2) ICCPR provides that countries which have not abolished it may only impose it for the “most serious crimes”. It appears that, as the offences listed under the blasphemy law do not qualify as most serious crimes, the imposition of the death penalty on the basis of this law will violate international law.

#### *Freedom of religion and belief*

We would also like to appeal to your Excellency’s Government to ensure the right to freedom of religion or belief 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 practice 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).

The repeal of blasphemy laws has been called for by the Special Rapporteurs on freedom of religion or belief and freedom of opinion and expression, and is a recommendation of the Rabat Plan of Action and Human Rights Committee General Comment No. 34. Such repeal is particularly urgent in situations where the laws carry death sentences, such as in Pakistan. Blasphemy laws have been shown to violate freedom of religion and belief. Individuals belonging to religious minority groups are disproportionately charged with “blasphemy”, for practicing their faith.

### *The right to freedom of opinion and expression*

The rights to freedom of opinion and of expression are essential for every democratic society and an indispensable condition for the full development of a person. Freedom of expression is guaranteed by article 19 ICCPR, which provides that “everyone shall have the right to hold opinions without interference” as well as that “everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” This right includes not only the exchange of information that is favorable, but also that which may shock or offend.

The obligation to respect the freedom of opinion and of expression is binding on every State party as a whole, including public universities. Furthermore, this obligation also requires the State “to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to the extent that these Covenant rights are amenable to application between private persons or entities” (see Human Rights Committee General Comment 34, para. 7).

The Human Rights Committee in its General Comment No. 28 explained that States “should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of equal enjoyment” of all rights outlined in the ICCPR.

### *The right of all to take part in cultural life*

Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Pakistan in 2008, guarantees the right of all to take part in cultural life, and requires that States undertake to respect the freedom indispensable for scientific research and creative activity. Academic freedom is also an essential component of guaranteeing cultural rights, which are closely linked to the right to education as has been stressed by the Committee on Economic, Social and Cultural Rights. In its General Comment No. 21, the Committee stated that the right to education is meant “to foster an atmosphere of mutual understanding and respect for cultural values” (para. 2), a goal which is incompatible with university authorities investigating students for “blasphemy”.

In her recent report to the Human Rights Council, the Special Rapporteur in the field of cultural rights warned of the negative impact on cultural rights of fundamentalist ideologies that seek to stifle artistic expression, as well as expression of cultural

opposition and diversity so as to impose monolithic worldviews (A/HRC/34/56, para. 3). She also noted that Governments must ensure there is a counterweight to fundamentalist and extremist discourses by publicly challenging them and by guaranteeing education aimed at the objectives specified in article 13 (1) ICESR and article 26 (2) UDHR, as interpreted by the Committee in its General Comment No. 13. on the right to education. Such education should strengthen respect for human rights, promote understanding, tolerance and gender equality and be informed by humanism.” (ibid., para. 24).

She likewise emphasized that policies that combat discrimination in the right to take part in cultural life or promote freedom of expression, scientific freedom and education in accordance with international human rights norms are core aspects of combating fundamentalism and extremism (ibid. para. 20). She called on States to, in accordance with relevant international law, recognize and combat extremist and fundamentalist ideologies that promote sectarianism and discriminatory attitudes towards, inter alia, those with different world views. This should be done, in particular through education in accordance with international standards, informed by humanism, including about the value of cultural diversity, and the cultural rights of all (ibid. para. 96(b)).