

**Mandates of the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief**

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 34/6 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 **non-implementation of the Supreme Court decision of 19 June 2014, which requests the Government to take concrete measures to protect members of religious minorities and their places of worship.**

According to the information received:

Several acts of violence perpetrated against religious minorities in Pakistan, and in particular an attack on a church in Peshawar that killed 81 people on 22 September 2013, prompted the Supreme Court of Islamabad to reaffirm the fundamental right to religious freedom as enshrined in the Constitution of Pakistan and in universal human rights law, including the International Covenant on Civil and Political Rights (ICCPR) ratified by Pakistan in 2010. The issue was taken up by the Supreme Court *suo moto*, and it delivered a historic judgement on 19 June 2014.

The Supreme Court ruling requested the Government of Pakistan to constitute a National Council for minorities' rights, which should "(...) *monitor the practical realization of the rights and safeguards provided to the minorities under the Constitution and law.*" (Supreme Court decision, 19 June 2014, Para 37, page 31). It further requested the Government to establish a Special Police Force with professional training to protect the places of worship of minorities.

The Supreme Court ruled that every citizen should have the right to profess, practise and propagate his or her religion; and that every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions in accordance with Article 20 in the Constitution of Pakistan, 1973.

The Supreme Court decision further elaborated:

*"Of all the Articles relating to the minorities' rights, Article 20 is of prime significance. A close reading of this provision would indicate that the freedom to practice religion and manage religious institutions under this provision is multifaceted because:*

*The right to religious conscience conferred under this Article does not make any distinction between majority and minority or Muslim and Non-Muslim. It is in the nature of an Equal Religious Protection Clause conferred on every citizen, every religious*

*denomination and every sect thereof. This equal religious protection clause is in the same nature as the equal justice under the law and equal protection under the law clauses conferred under Articles 4 and 25. In other words, every absolute equality and there is no distinction among citizens, religious denominations and sects thereof, as far as the right to religious conscience, is concerned.” Supreme Court decision, 19 June 2014, para. 15.*

As pointed out in the Supreme Court ruling, the continued reports of faith or ethnic based violence “*indicate that mere textual pledges in the Constitution, though important are not enough to ensure that those rights would be honored in practice. It is, therefore, important that the concerned governments / institutions take proactive lead to ensure that those rights are respected and enjoyed in practice*”. (Supreme Court decision, 19 June 2014, para 22).

While we welcome the Supreme Court decision of 19 June 2014, we regret that the decision remains to be implemented. We are concerned about the continued reports of hate speech and hate crimes against persons belonging to religious minorities and attacks on their places of worship and acts of violence against their followers. Moreover, we regret that no effective and independent National Council for minorities’ rights has been established, as requested by the Supreme Court Decision para 34, number 4.

We are drawing Your Excellency’s Government’s attention to that important decision by the country’s highest judicial authority and urge it to implement its decision without delay. In this connection, we call on Your Excellency’s Government to adopt and implement legal and practical measures that will effectively ensure the protection of religious communities and their places of worship throughout the country.

We wish to reiterate Your Excellency’s Government’s obligations under international human rights law, including article 18 and 27 of the ICCPR ratified by Pakistan on 23 June 2010. In particular, article 18 establishes the right to freedom of religion or belief and article 27, which guarantees the right to minorities, in community with the other members of their group, to profess and practise their own religion.

Article 2 (1) of the ICCPR stresses that the State must ensure that all individuals within its territory and subject to its jurisdiction enjoy the rights recognized in the Covenant, without distinction of any kind, such as [...] religion [...]. This creates the positive obligation to protect the freedom of religion or belief of the persons on its territory and under its jurisdiction as provided in article 18 of the ICCPR. Everyone must be able to peacefully exercise the religion or belief of one’s choice, free of coercion and fear. We would also like to recall that Art 26 of the ICCPR, states that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as

We also recall the Government of Pakistan, which is a Member of the Human Rights Council, that the Council’s Resolution 16/18, Para 5 (f) calls upon States to adopt measures to criminalize incitement to imminent violence based on religion or belief. Para 5 (g) furthermore calls upon States to strategize and harmonise actions to combat negative religious stereotyping of persons, as well as incitement to religious hatred, at the local, national, regional and international levels through education and awareness-building. We would also like to remind that, Para 6 (b) stresses the importance of fostering religious freedom and pluralism by promoting the ability of members of all religious communities to manifest their religion, and to contribute openly and on an equal

footing to society. Moreover, Para 8 calls upon States to adopt measures and policies to promote the full respect for and protection of places of worship and religious sites, cemeteries and shrines, and to take measures in cases where they are vulnerable to vandalism or destruction.

Additionally, the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end (article 1). It further recognizes that persons belonging to religious minorities have the right to profess and practise their own religion without discrimination (article 2) and requires States to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law (article 4.1).

We would appreciate to receive a response within 60 days. Passed that delay, this Communication and Your Excellency's Government's response will be made public and available in the next report to be presented to the Human Rights Council for its consideration.

While awaiting a positive reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence 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 the alleged violations.

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

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Special Rapporteur on minority issues

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