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**Human Rights Committee**

Concluding observations on the

Addendum

Information received from on follow-up to the concluding observations[[1]](#footnote-2)\*

[Date received: 16 May 2019]

Response to Recommendation at Para 18

1. The International Convention on Civil and Political Rights (ICCPR) allows capital punishment but under certain limitations. Article 6 of the said Convention states that in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes. There is no international consensus on the definition of “most serious crimes”.

2. The Policy of death penalty in Pakistan is in line with the Constitution and national circumstances and is in consonance with our international obligations. Pakistan is examining the existing provisions of its Criminal Procedure Code (Cr. PC) and Pakistan Penal Code (PPC) to determine if the scope of death penalty can be narrowed.

3. The moratorium on death penalty was lifted after a national consensus developed in the wake of dreadful and atrocious attack on Army Public School, Peshawar in which more than one hundred and forty students and teachers lost their lives. This decision was supported by all the political parties.

4. The death penalty is awarded by courts after following due process of law. Every accused sentenced to death has constitutional right and access get pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or other authority. Every person condemned to death has right to seek pardon or commutation of sentence. Article 45 of the Constitution of the Islamic Republic of Pakistan states, “The President shall have power to grant pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or other authority.” All the prisoners sentenced to death, whether by Ordinary Courts or Military Courts are given opportunity to seek Presidential Pardon. This is part of right to due process of law as guaranteed in Article 10-A of Pakistan’s Constitution.

5. In accordance with the Juvenile Justice System (Juvenile Justice System Ordinance (2000), death penalty cannot be imposed on individuals below the age of 18 in Pakistan. Adequate safeguards are in place to ensure this, and no death penalty has been awarded to any individual below the age of 18. The Juvenile Justice System Act, 2018 has also been promulgated. The Act provides for disposal of cases through diversion and social-reintegration of the juvenile offenders.  Provision in the law allows for self-determination of age, shifting the onus to prove otherwise on the prosecution. The age of accused is determined at several stages:

(i) Time of arrest

(ii) Arrest Certificate (Hulaiya Form)

(iii) Statement u/sec 161 CRPC

(iv) Entry in police diary (Zimni)

(v) Statement u/164 CRPC

(vi) Recording of evidence

(vii) Statement u/sec 340, 342 CRPC

(viii) Appeal to High Court

(ix) Appeal/Revision Petition to Supreme Court

(x) Pardon to President u/Art 45 of the Constitution.

6. In the wake of daunting challenges and threats posed by terrorists’ attacks and loss of precious life and property, the military courts were established under the 21st Constitutional amendment with limited scope i.e. to deal with terrorism related cases, only. These military courts had expired on January, 2017 but were given extension for another two years through Constitutional Amendment. These courts have now expired in March 2019.The establishment of the military courts was in accordance with our constitution and international obligations. In this regard, it may be noted that the process of processing cases for the military courts was designed with checks and balances. Thus, out of 869 cases received from the provinces, only 59 prisoners were executed after observing due process of law through courts including Supreme and High Courts. The following steps were taken to ensure right of fair trial:

(i) All cases to be tried in Military Courts were to be approved by respective Provincial Apex Committee by Law.

(ii) Sanction of the Federal Government for trial or such cases in Military Courts was also a pre-requisite as per law.

(iii) Condemned prisoners by Military Court have right to appeal to Court of Appeals against any judgment passed by Military Courts. They can also appeal before Chief of Army Staff. They further have the right to appeal for mercy to the President under Article 45 of the Constitution of Pakistan.

7. A Committee to review mercy petitions has been notified under Article 45 of the Constitution whereby the President of Pakistan has been granted powers to pardon prisoners on the death row.

Response to Recommendation at Para 20

8. The Federal Government had constituted a ‘Commission of Inquiry on Enforced Disappearances’ in March 2011 in exercise of the powers conferred upon it under Pakistan Commissions of Inquiry Act 1956 (Repealed by Pakistan Commission of Inquiry Act 2017). The Commission, comprising the Chairman and two Members is headed by former Senior Most Judge of the Supreme Court of Pakistan.

9. Commission on Inquiry on Enforced Disappearances serves as a legal forum for families of alleged disappeared persons to lodge complaints. During investigation of cases, they are kept informed about progress of their cases. The hearing of the cases is done in their presence. The system is absolutely free of cost as neither there is any fee for lodging a complaint nor the complainants are required to engage lawyers to appear before the Commission. The hearings are also held at the provincial capitals with a view to save expenses of the complainants to travel to the federal capital. During investigation of cases, the Commission has been receiving full co-operation from all stake holders including Federal / Provincial Governments, Intelligence and Law Enforcing Agencies. There is no instance of non-compliance of Commission’s orders by the relevant authorities.

10. Consequent to concerted efforts and co-ordination with the stakeholders, the Commission has been able to dispose off majority of the cases. The details of cases of enforced disappearances up to 31.3.2018 are given below:

| *Total Number of cases received by the Commission* | *4,929* |
| --- | --- |
| Cases disposed of by the Commission from March, 2011 to February, 2018 | 3,219 |
| Cases under investigation as on 28.02.2018 | 1,710 |
| Average Disposal of cases per month | 38.32 |

11. The Actions (in Aid of Civil Power) Regulations, 2011 have been formulated strictly in conformity with the International Human Rights Standards. The abuse or misuse of force during operations has been made punishable under the Regulations. All detainees apprehended during operations are kept in declared and notified Internment Centers. The internees' cases are being regularly reviewed by the Oversight Boards notified by the Provincial Governments. Comprehensive provisions including welfare of detainees, de-radicalization, release and disposal of cases are contained in the law.

Response to Recommendations at Para 34 (a), (b) and (c)

12. The Blasphemy law of Pakistan is contained in the Chapter XV of Pakistan Penal Code. The Government takes any complaint of misuse of Blasphemy Law with the utmost seriousness, and continues to take legal, administrative as well as policy measures to prevent the misuse of the Blasphemy Law.

13. Blasphemy Law aims at ensuring public order and harmony in society, by seeking to prevent inter-religious discord and incitement to violence, inter alia through hate speech. This law in Pakistan is non discriminatory and deals with offences against all religions and applies to Muslims and non-Muslims alike.

14. Various measures have been adopted through a consultative process to check the misuse of Blasphemy Law, which involved stakeholders including the Provincial Governments, Ministry of Religious Affairs, Law and Justice Division, Ministry of Information and Broadcasting, the Council of Islamic Ideology, Ulema Councils and Various Law Enforcement Agencies. The overall strategy has been to evolve consensus of all the stakeholders so that flaws in the process are identified and then stymied so as to deter such cases from occurring.

15. In pursuance of such aims, the Ministry of Interior has, with the approval of the Federal Cabinet, made amendments in the Federal investigation Agency (FIA) schedule wherein any complaint under section 295-A, 295-C, 298 and 298-A of Pakistan Penal Code (PPC) will fall in purview of the FIA which will have the powers to check misuse of blasphemy cases parallel to the provincial police departments. Additional safeguards have been put in place to check misuse of Blasphemy Law including:

• Procedure has been amended and the preliminary inquiry in such cases is now carried out by the District Police Officer ***(senior level).***

• Section 211 of PPC states that a person intentionally initiates a false criminal case or puts false charges on any other person for an offence without any lawful ground; he shall be punished with imprisonment of 2 years, or fine or both. And he may also be imprisoned for 7 years and fine, if punishment for such falsely charged crime is death, imprisonment for life, or for 7 years or more.

16. Just like any other offender, a person accused of violation of Blasphemy Law undergoes a trial before the Court of law. There is also an effective process of appeal in case of conviction under the Blasphemy Law. If any accused is convicted and awarded capital punishment by Court of Sessions, the same is required to be confirmed by two judges of the High Court otherwise it cannot be implemented. After the decision of the High Court, the convict has the remedy to appeal to the Supreme Court of Pakistan. If the apex Court upholds the verdict of the High Court, a mercy petition can be submitted to the President of Pakistan who under Article 45 of the Constitution can grant pardon, reprieve and remit the sentence.

17. The Supreme Court of Pakistan, in a case reported as PLD 2002 SC 1048, has held that the rule of benefit of doubt, which is described as the golden rule and a rule of prudence, which cannot be ignored while dispensing justice in accordance with the law. It is based on the maxim, “it is better that ten guilty persons, be acquitted rather than one innocent person be convicted. This rule also occupies a pivotal place in Islamic Law and is enforced rigorously in view of the saying of the Holy Prophet (P.B.U.H.) “the mistake of Qazi (judge) in releasing a criminal is better than his mistake in punishing an innocent”.

18. Statistics of Blasphemy cases registered in Punjab during 2011-2015 show that out of 2299 only 255 (11%) persons were falsely involved in the blasphemy cases and out of 1296 cases only 119 (9%) cases were falsely registered. This ratio was reduced to 6% in 2015 due to effective prosecution by the Government and discouragement of the abuse of Blasphemy Law by mischievous elements. Furthermore, 1201 (around 93%) blasphemy cases were registered against Muslims (majority) whereby 6 cases are against Muslims by Non-Muslims. During the same period, in Sindh, the second largest province of Pakistan, only 11 cases were registered. In case of KP, only 19 cases were registered and most of them are against Muslims. It is noteworthy that not a single person has been executed so far on the allegations of blasphemy.

19. The 2018 Supreme Court judgement in Asia bibi case gives useful insights to further improve the legal and administrative measures on application of Blasphemy Law.

Response to Recommendations 34 (d), (e), and (f)

20. Rights and interests of minorities are protected in Pakistan. Minorities constitute about 3.5 per cent of the total population and consist of Christians, Hindus, Ahmedis, Parsis, Buddhists and Sikhs. Discrimination on the basis of ethnic diversification is not a prevalent phenomenon in the Pakistani society. Furthermore there is no bar on any caste, creed, linguistic and ethnic group in respect of political participation at national, provincial or local level. Few constitutional guarantees for the protection of rights of minorities are as under:

• Article 36 of the Constitution of Pakistan states; “The State shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services.”

• Article 33 of the Constitution also forbids any sort of discrimination among citizens on racial, parochial, tribal or sectarian grounds.

• Article 37 carries a special reference to the promotion of social justice and eradication of social evils, ensuring that; “The State shall: (a) promote, with special care, the educational and economic interests of backward classes or areas.”

• Under Articles 20, 21, 22, 26, 27 and 28 of the Constitution of Pakistan, minorities are equal citizens of Pakistan and are free to profess their religion and visit their places of worship.

21. The Government of Pakistan has taken a number of legislative measures and policies that translate constitutional principles into state action for promotion and protection of rights of the minorities:

• The National Commission for Human Rights (NCHR), which was established in 2015, has suo moto powers to take action against cases of human rights violations in the country. It also acts as a quasi-judicial body. The NCHR has been diligently working for the protection of rights of all citizens and has been keeping a close eye on any case of discrimination or abuse especially against minorities.

• The Government has notified the National Commission for Minorities (NCM) with extended terms of references on 16-07-2014.

• The Government has further strengthened the National Commission for Minorities (NCM) The NCM along with revised composition and TORs was approved and notified on 4th May 2015 with the inclusion of the Minister, Religious Affairs & Inter-faith Harmony, as ex-officio chairman of the NCM. The Commission comprises members representing all minority communities living in the country.

• Ministry of Human Rights is giving special attention to the protection of rights of minorities in line with National Action Plan for Human Rights approved by the Prime Minister of Pakistan.

• The Government has enhanced security around places of worship of all communities.

22. The Supreme Court of Pakistan in its landmark judgment of 19th June, 2014 as a result of suo moto proceedings under Article 184(3) of the Constitution initiated on a letter received from an NGO regarding an attack on a Church in Peshawar, clarified the applicability of this section that desecration of places of worship of minorities is also an offence under this section. The section protects all religions against desecration of their places of worship including Churches, Imam bargahs, Gurdawaras and mosques.

23. Pakistan Penal Code defines penalties against perpetrators of human rights violations against minorities which include inter alia the following:

• Section 153(A) criminalizes promotion of enmity between different groups, on the basis of race religion, language, case or community.

• Section 505(2) criminalizes publication of any material that may incite group differences.

• Section-295: Relates to injuring or defiling place of worship with intent to insult religion of any person.

• Section-295-A: Relates to malicious acts intended to outrage religious feelings of any class by insulting its religion beliefs.

• Section-296: Relates to disturbing religious assembly.

• Section-297: Prohibits trespassing on burial place.

24. In addition to the PPC, Police Order, 2002 Chapter–II contains special provisions to ensure protection of the rights of vulnerable sections of society. Besides, other functions, it binds every police officer to “assist in preventing members of public from exploitation by any person or organized groups”. These provisions serve to enhance legal protection of all sections of society.

25. Electronic media is regulated by the Pakistan Electronic Media Regulatory Authority Ordinance 2002 (XIII of 2002). It was holistically amended in 2007 (Pakistan Electronic Media Regulatory Authority (amendment) Act, 2007) and thereafter the regulatory regime was further strengthened. Clause (c) of section 20 of the said Act, ensures that all programs and advertisements shall not contain or encourage violence, terrorism, racial, ethnic or religious discrimination, hatred, pornography, or other material offensive to commonly accepted standards of decency.

26. Section 23 of Pakistan Electronic Media Regulatory Authority Code of Conduct 2015 ensures that no satellite TV channel, FM Radio or distribution network i.e. Cable TV network, IPTV, MMDS etc. is allowed, whatsoever, to disseminate any programme/ content containing hate speech; whereas hate speech includes any expression that may incite violence, hatred or discrimination on the basis of religion, ethnicity, colour, race, gender, origin, caste, mental or physical disability. Section 23 of Code of Conduct states that:

(a) Licensee shall ensure that hate speech by any of its employees or any guest in a programme is not aired.

(b) The licensee shall not relay allegations that fall within the spectrum of hate speech including calling someone anti-Pakistan, traitor, or anti-Islam.

(c) Where hate speech is resorted to by any guest, the channel and its representative must stop the participant and remind him and the audience that no one has the authority to declare any other citizen as a Kafir or enemy of Pakistan, Islam or any other religion.

27. Loud speakers have been banned to discourage the hate speech and thousands have been arrested for its violation.

28. On 7 May 2019, the Federal Cabinet approved a uniform curriculum for all education institutions in the country, which includes 30,000 madrassahs (religious seminiries).

29. The Syndicate of University of the Punjab in its meeting held on 14th February, 2018 has approved inclusion of human rights and tolerance as a separate subject in BA/ B.Sc. compulsory course of Pakistan Studies/ Islamiat w.e.f. academic session 2018.

30. The Ministry of Human Rights has also initiated Public Awareness Campaign on Human Rights Education and Sensitization under Action Plan for Human Rights, 2016 through Seminars as well as advertisements in print and electronic media. The campaign’s target is general public, civil society, researchers, academia, students, government functionaries and different segments of society.

31. The National Action Plan provided for steps for countering hate speech and extremist material, effective measures against religious persecution, registration and regulation of madrassas, ban on glorification of terrorism and terrorist organizations through print and electronic media. In this regard, 1373 cases regarding hate speech, or publishing hate material have been registered.

32. The details of steps taken by Provincial Governments are attached as Annex-A.

Conclusion

33. The concluding observations / recommendation on ICCPR have been shared with all relevant departments of the federal, provincial, AJ&K and GB governments. Treaty Implementation Cells (TICs) set up at federal, provincial and district levels have also actively been disseminating recommendations of UN treaty bodies.

34. The Government of Pakistan reiterates that it attaches the highest importance to Human Rights and promotion and protection for all of its citizens. The Government’s Vision 2025 focuses on inclusive and sustainable development, thus ensuring ‘Human Dignity’ for all. This follow-up report to the Concluding Observations is a testimony of our commitment and constructive engagement with the human rights mechanisms.

Annexure A

Steps taken by Provincial Governments for the Protection of Minorities:

1. Khyber Pakhtunkhwa

• In KPK, Commissioners and Police formations have been directed to exhibit zero tolerance to hate speeches and material. The propagation of hate speech and incitement to violence through loudspeakers has been discouraged and strict action has been taken in different districts of the province. FIRs have been lodged for the aforesaid offence, perpetrators arrested and equipments seized.

* District Vigilance Committees have been constituted to keep an eye on the religious institutions.
* KPK Protection of Communal Properties of Minority Community Act-2014 and KPK Evacuee Trust Property (Management & Disposal) Act -2014 were enacted to strengthen legal framework for the protection and promotion of rights of minorities.
* KPK Hindu Disposition of Property Bill-2014 is under process in the Provincial Assembly for legislation.

2. Punjab

• Government of Punjab has initiated a program to sensitize trainers involved in training of public officials on the issues of religious rights and freedom. Inter-faith harmony seminars are being arranged in Punjab and other provinces to raise awareness regarding religious rights and freedom.

• Curriculum in Punjab is being reviewed and revised systematically by making it coherent with aim of social and interfaith harmony. The Board responsible for curriculum development is a statutory body working independently with relevant guidance of the provincial government on important matters.

• Government of Punjab has reorganized the Provincial and District Interfaith Harmony Committees for creation of harmonious relations and tolerance among religious minorities.

• The Punjab Sound Systems (Regulation) Act, 2015 has been implemented strictly to curb and control hate speech.

• District Interfaith Harmony committees are also meeting frequently to sensitize religious and social leaders about peaceful co-existence. Government of the Punjab, Home Department imposes ban on Hate Material (u/s 99-A of CrPC 1898) after receiving recommendations from Mutheda Ulema Board, Punjab.

• Government of the Punjab has forfeited 67 Publications and CDs and declared these as hate material under section 99-A of the CrPC on recommendation of Mutahida Ulema Board (MUB) from January 2015 to November 2017.

• Punjab school Education Department has introduced a supplementary study material that has been published and disseminated to students titled “Lets study together” to eliminate elements of discrimination against religious minorities. Curriculum has also been revised to make it more supportive of inter-faith and social harmony.

• The Punjab Information of Temporary Residents Act, 2015, The Punjab Security of vulnerable Establishments Act, 2015, The Punjab Maintenance of Public Order (Amendment) Act, 2015 and The Punjab Arms (Amendment) Act, 2015 were enacted to strengthen legal framework for the protection and promotion of rights of minorities.

• Punjab Police has reserved 6249 Personnel solely for security of Worship Places of Minorities who have especially been trained to overcome any untoward situation as such compliance of this direction also stood implemented.

3. Sindh

• The Sindh Sound System (Regulation) Ordinance 2015” envisages the prevention of incitement to violence against persons based on religion or belief.

• The Sindh Security of Vulnerable Establishment Act 2015” promulgated by the Provincial Assembly, aims to identify, categorize, notify and provide full-fledged security to religious/ sensitive establishments and places. In order to protect and safeguard religious minorities, the Minorities Affairs Department of Sindh has constituted two Committees at Provincial and District level headed by Minister for Minority Affairs and District Committee headed by Deputy Commissioner of concerned districts respectively.

• Government of Sindh is paying serious attention to provide security to the minorities and their religious places. In this regard, CCTV cameras have been installed at all sensitive places and worship places of minorities.

• Sindh Assembly has passed the resolution regarding inclusion of religious text books of Hindus in curriculum of Hindu minorities.

• The Sindh School Education Standards and Curriculum Act 2014 has been promulgated. This law aims to enable all children to have a command of relevant knowledge, skills and human rights values necessary to reach their full potential.

4. Balochistan

• The Religious Affairs & Interfaith Harmony Department of Balochistan has taken various steps after the devolution of this subject for uplifting the minorities in Baluchistan for promotion of interfaith harmony.

• The Home & Tribal Affairs Department, Government of Baluchistan provides security to the minorities in Balochistan and their religious places especially on the following occasions:

(a) Worship days like every Sunday at the Church premises

(b) Religious events like Holy, Easter, Christmas etc.

(c) Festivals and Functions

(d) On arrival of respective Religious leaders of minorities

• In Balochistan, separate course of ethics is being offered to non-Muslim students instead of Islamic studies. It is also being ensured that no material related to hate speech is part of daily lessons.

1. \* The present document is being issued without formal editing. [↑](#footnote-ref-2)