

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

NEW YORK
CITY BAR

DEBRA L. RASKIN
PRESIDENT
PHONE: (212) 382-6700
FAX: (212) 768-8116
draskin@vladeck.com

October 16, 2015

H.E. Mr. Nawaz Sharif
Prime Minister of the Islamic Republic of Pakistan
c/o Embassy of the Islamic Republic of Pakistan to the United States
3517 International Court NW
Washington, DC 20008

Dear Prime Minister Sharif:

I write on behalf of the New York City Bar Association to express our grave concern regarding the rise in threats, violence, and killings in Pakistan based on blasphemy allegations. Recent examples include the killing of Abid Mahmood upon his release from prison, where he was held on blasphemy charges; the shooting of Muhammad Asghar, a prisoner convicted of blasphemy; and the killing of Muhammad Shakil Auj, a prominent religious scholar accused of blasphemy. These incidents, combined with an increase in blasphemy-based arrests, convictions, severe sentences, and attacks on lawyers, judges, and the media threaten to further undermine the rule of law in Pakistan.

The Association recognizes the government's central interest in guarding against defamation of religion—a goal that the Association believes can be achieved while preserving basic freedoms. We therefore respectfully urge the government to revise its blasphemy laws in a manner that upholds respect for Islam while complying with its obligations under the Constitution and the International Covenant on Civil and Political Rights.

The Association is an independent nongovernmental organization of over 24,000 lawyers, judges, law professors, and government officials from the United States and over 50 other countries. Throughout its 145-year history, the Association has consistently maintained that respect for the rule of law is essential in all jurisdictions and has a long history of investigating and reporting on human rights concerns around the world, including within the United States. The Association has a strong and longstanding interest in preserving freedom of expression and religion, securing unfettered access to meaningful legal representation, and ensuring the safety of

lawyers and human rights defenders. We believe that advancing these rights is essential to a fair and just society.

FACTUAL BACKGROUND

In the past five years, individuals within Pakistan have been regularly threatened, attacked, and imprisoned for expressing unpopular perspectives. Under Pakistan's rather stringent laws, blasphemy—defined vaguely to include such acts as apostasy, defiling a place of worship or the Quran, insulting or using derogatory language about the Prophet Mohammad, misusing epithets, and using descriptions and titles reserved for holy personages and places—can be punishable by death.¹ Since 1986, a total of at least 1,300 individuals have been charged with the crime of blasphemy.² Of these, at least 17 are awaiting execution and at least 19 are serving life sentences.³ And although no judicial executions have yet taken place, more than 50 of those charged have been murdered—and countless others attacked—after being released or while their trials were pending.⁴

For example, it was reported earlier this year that Abid Mahmood, a man arrested on blasphemy charges and later released after being found mentally unstable, was killed by gunmen.⁵ Similarly, Muhammad Asghar, a 70-year old Scottish prisoner who allegedly suffers from mental illness, was convicted of blasphemy and sentenced to death in January 2014 and shot in his cell by a prison guard last September.⁶ Earlier that same month, Dr. Muhammad Shakil Auj, dean of Islamic studies at the University of Karachi, was shot and killed after he was accused of blasphemy by four of his fellow professors for comments made at a 2012 speech delivered in the United States.⁷ It was reported that prior to his death, Dr. Auj filed a criminal

¹ Pakistan Penal Code, Section XV, §§ 295–98.

² *Timeline: Accused under the Blasphemy Law*, DAWN (Aug. 18, 2013), <http://www.dawn.com/news/750512/timeline-accused-under-the-blasphemy-law> (citing 1,274 accusations of blasphemy as of August 2013); Syed Raza Hassan, *Pakistani police charge 68 lawyers with blasphemy over protest*, REUTERS (May 13, 2014), <http://www.reuters.com/article/2014/05/13/us-pakistan-blasphemy-charges-idUSBREA4C08220140513> (citing an additional 68 cases from 2014, and bringing the likely total to well over 1,300).

³ 2014 Annual Report: Pakistan, U.S. Commission on International Religious Freedom, <http://www.uscirf.gov/sites/default/files/Pakistan%202014.pdf>.

⁴ *Timeline: Accused under the Blasphemy Law*, DAWN (Aug. 18, 2013), <http://www.dawn.com/news/750512/timeline-accused-under-the-blasphemy-law>.

⁵ Cheryl K. Chumley, *Pakistani Muslim accused of blasphemy gunned down near Islamabad*, THE WASHINGTON TIMES (Jan. 8, 2015), <http://www.washingtontimes.com/news/2015/jan/8/abid-mehmood-muslim-accused-of-blasphemy-gunned-do/>.

⁶ Mr. Ashgar, who had a known history of mental illness, was arrested in 2010 after writing letters to a number of people claiming to be a prophet. *Blasphemy case: Scot shot in Pakistan jail*, BBC NEWS (Sept. 25, 2014), <http://www.bbc.com/news/uk-scotland-edinburgh-east-fife-29357949>.

⁷ Zia ur-Rehman, *A Pakistani Scholar Accused of Blasphemy is Shot Dead*, NEW YORK TIMES (Sept. 18, 2014), <http://www.nytimes.com/2014/09/19/world/asia/pakistan-shakil-auj-assassinated-blasphemy-karachi.html>.

complaint against his accusers, citing ongoing death threats and intimidation. It is believed that around the same time, a religious seminary in Karachi repeated the accusations and issued a *fatwa* calling for his death—a call that was soon answered by unidentified gunmen.⁸ Although Dr. Auj’s case is particularly high profile, it is not unusual: indeed, accusations of blasphemy have in recent years inspired an ever-growing number of vigilante killings.

Moreover, judges who have released individuals accused of the crime of blasphemy have been attacked, and prominent politicians who have suggested legal reforms have been killed.⁹ In January 2011, the former governor of Punjab Province, Salman Taseer, was shot and killed by his bodyguard for advocating repeal of the blasphemy laws and for seeking a pardon for a Christian woman sentenced to death under the laws.¹⁰ Months later, in March 2011, Minister for Minorities Shahbaz Bhatti, an outspoken critic of the laws, was also shot and killed, and it has since been reported that witnesses in the trial against the perpetrators continue to receive death threats.¹¹

Lawyers representing individuals accused of blasphemy have similarly been targeted. In May 2014, Rashid Rehman, a senior Pakistani lawyer and coordinator of the Human Rights Commission of Pakistan, was killed by a gunman after taking on the case of English professor Junaid Hafeez, whom a student had accused of defaming the Prophet Mohammed.¹² It was reported that Mr. Rehman had received death threats in open court while representing Mr. Hafeez at his trial.¹³ Unsurprisingly, defendants like Mr. Hafeez have had difficulty obtaining legal representation because lawyers fear the repercussions of working on blasphemy cases.

Since there is no penalty for false accusations, Pakistan’s blasphemy laws are also increasingly misused by powerful individuals to target nettlesome civil society proponents,

⁸ *Id.*

⁹ *Policeman kills blasphemy accused in Adiala jail*, EXPRESS TRIBUNE (Pakistan) with the INTERNATIONAL NEW YORK TIMES (Sept. 25, 2014), <http://tribune.com.pk/story/767045/british-man-jailed-for-blasphemy-wounded-in-adiala-jail/>.

¹⁰ Salman Masood and Carlotta Gall, *Killing of Governor Deepens Crisis in Pakistan*, NEW YORK TIMES (Jan. 4, 2011), <http://www.nytimes.com/2011/01/05/world/asia/05pakistan.html>; *Punjab Governor Salman Taseer assassinated in Islamabad*, BBC NEWS (Jan. 4, 2011), <http://www.bbc.com/news/world-south-asia-12111831>.

¹¹ *Extremist threats hamper Shahbaz Bhatti’s murder trial*, DAWN (Feb. 8, 2014), <http://www.dawn.com/news/1085703>; Declan Walsh, *Pakistan minister Shahbaz Bhatti shot dead in Islamabad*, THE GUARDIAN (Mar. 2, 2011), <http://www.theguardian.com/world/2011/mar/02/pakistan-minister-shot-dead-islamabad>.

¹² Andrew Buncombe and Umar Aziz, *Pakistani lawyer Rashid Rehman murdered after taking on blasphemy case*, THE INDEPENDENT (May 8, 2014), <http://www.independent.co.uk/incoming/pakistani-lawyer-rashid-rehman-murdered-after-taking-on-blasphemy-case-9341021.html>.

¹³ Human Rights Commission of Pakistan, *HRCP Slams Threats to Lawyer Representing Blasphemy Accused* (April 10, 2014), <http://hrcp-web.org/hrcpweb/hrcp-slams-threat-to-lawyer-representing-blasphemy-accused/>. According to the HRCP, during arguments for the acquittal of the accused, Mr. Rehman was told in court, “You will not come to court next time because you will not exist any more.” Although, Mr. Rehman brought the threats to the judge’s attention, the judge reportedly took no action.

eliminate challenges to business interests, target minorities, and silence the media.¹⁴ Human rights groups report that these laws are “frequently abused in pursuit of personal or professional grudges.”¹⁵ For example, in May 2014, police filed blasphemy charges against 68 lawyers who were protesting the detention of one of their colleagues. According to reports, the lawyers charged were shouting in protest against a senior police official who happened to share the name of a historical figure in Islam who was a companion of the Prophet Mohammed.¹⁶ Meanwhile, in March 2014, a court in Lahore sentenced Sawan Masih, a Christian sanitation worker, to death for blasphemy. Mr. Masih argued that he was falsely accused by a businessman who sought to remove Christians from the area in order to acquire the land for industrial use.¹⁷

While the Constitution of Pakistan incorporates a commitment to uphold respect for Islam and prevent defamation of religion, achieving this goal is fully compatible with reforms that would decriminalize blasphemy and guard against misuse of Pakistan’s blasphemy laws, as prominent Islamic scholars have explained.¹⁸ Moreover, Pakistan’s blasphemy provisions are notably among the most stringent in the world, including among many other Muslim-majority countries. Existing laws in other countries have imposed a range of penalties for blasphemy offenses, including fines and suspended prison sentences in Greece, Poland, and Algeria, prison sentences ranging from five to twenty years in countries such as Indonesia and Afghanistan, and corporal punishment in Sudan.¹⁹ Despite the excessive nature even of some of these punishments, Pakistan remains one of few exceptions in its even harsher approach of

¹⁴ Asad Hashim, *Living in fear under Pakistan’s blasphemy law*, AL JAZEERA (May 17, 2014), <http://www.aljazeera.com/indepth/features/2014/05/living-fear-under-pakistan-blasphemy-law-20145179369144891.html>; Jon Boone, *Pakistan’s Geo News becomes latest target in blasphemy accusation trend*, THE GUARDIAN (May 22, 2014), <http://www.theguardian.com/world/2014/may/22/pakistan-geo-news-blasphemy-pakistan-sufi-song-wedding>.

¹⁵ Zia ur-Rehman, *A Pakistani Scholar Accused of Blasphemy is Shot Dead*, NEW YORK TIMES (Sept. 18, 2014), <http://www.nytimes.com/2014/09/19/world/asia/pakistan-shakil-auj-assassinated-blasphemy-karachi.html>.

¹⁶ Syed Raza Hassan, *Pakistani police charge 68 lawyers with blasphemy over protest*, REUTERS (May 13, 2014), <http://www.reuters.com/article/2014/05/13/us-pakistan-blasphemy-charges-idUSBREA4C08220140513>.

¹⁷ *Christian falsely accused of blasphemy gets death sentence in Lahore*, PAKISTAN TODAY (March 27, 2014), <http://www.pakistantoday.com.pk/2014/03/27/national/christian-falsely-accused-of-blasphemy-gets-death-sentence-in-lahore/>.

¹⁸ See Javed Ahmad Ghamidi, *Punishment for Blasphemy against the Prophet* (Oct. 16, 2014), www.javedahmadghamidi.com/muqamaat/view/punishment-for-blasphemy-against-the-prophet-sws-part-1/ur. A *Conversation with Tariq Ramadan*, Pew Research Center (April 27, 2010), <http://www.pewforum.org/2010/04/27/a-conversation-with-tariq-ramadan/>; Faisal Kutty, *Why Blasphemy Laws Are Actually Anti-Islamic*, THE HUFFINGTON POST CANADA (April 15, 2014), http://www.huffingtonpost.ca/faisal-kutty-/blasphemy-laws_b_5149380.html.¹⁹ Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights*, at 4 (Oct. 10, 2010), <https://freedomhouse.org/report/special-reports/policing-belief-impact-blasphemy-laws-human-rights> [hereinafter *Policing Belief*].

¹⁹ Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights*, at 4 (Oct. 10, 2010), <https://freedomhouse.org/report/special-reports/policing-belief-impact-blasphemy-laws-human-rights> [hereinafter *Policing Belief*].

aggressively enforcing its blasphemy laws and imposing the death penalty for certain blasphemy crimes.²⁰

Without the adoption of essential safeguards, the government's aggressive enforcement of its blasphemy laws threatens to undermine its compliance with domestic constitutional provisions as well as its obligations under the International Convention on Civil and Political Rights ("ICCPR"), which Pakistan ratified in June 2010. The Association respectfully urges the government to explore less severe legislative remedies that are consistent with Islamic principles of respect, tolerance, and pluralism, and which simultaneously uphold existing constitutional and international human rights obligations.

Freedom of Expression

The Constitution of Pakistan provides that "Every citizen shall have the right to freedom of speech and expression," a right that is subject only to "reasonable restrictions imposed by law" including restrictions "in the interest of the glory of Islam" and the interest of upholding "decency and morality."²¹ And Article 19 of the ICCPR guarantees the rights of all individuals "to hold opinions without interference" and "to seek, receive, and impart information and ideas of all kinds"²² Because the prohibitions under Section XV of the Penal Code are overbroad and not clearly defined, they risk negating the free speech protections under Article 19, and call into question whether they constitute "reasonable restrictions." For example, Section 298 prohibits the utterance of words with the intention of wounding religious feeling, whereas section 298-A prohibits the defiling of the name of a "holy personage" even by "imputation, innuendo or insinuation."²³ As currently drafted, these provisions endow accusers with the unchecked ability to claim insult or offense without establishing any objective criteria for courts to determine whether a defamatory act was intended or has even occurred.

Without procedural safeguards in place, Pakistan's blasphemy laws have become a vehicle for retributive, politicized, and discriminatory arrests to silence liberal or unpopular perspectives. The recent arrest of lawyers who, in protest, shouted the name of a police officer who happens to share the name of a "holy personage" demonstrates the abusive reach of these laws, which penalize protected speech and fail to afford citizens adequate notice of the scope of prohibited conduct.

²⁰ *Id.*

²¹ The Constitution of the Islamic Republic of Pakistan, Article 19 [hereinafter Pakistan Constitution]

²² International Covenant on Civil and Political Rights, adopted 16 Dec. 1966, entered into force 23 Mar. 1976, 999 U.N.T.S. 171, art. 19(3) [hereinafter ICCPR]; *see also* Human Rights Committee General Comment 34, Freedoms of Opinion and Expression, General Comments under Article 19, of the International Covenant on Civil and Political Rights, U.N. Doc. CCPR/C/GC/34 (2011), ¶11 [hereinafter General Comment 34].

²³ Pakistan Penal Code, § 295-C.

Laws intended to protect religious respect should not eliminate the right to freedom of speech. The UN Human Rights Committee (the “Committee”), a body of independent experts tasked with implementing the ICCPR, has noted that “a norm, to be characterized as a ‘law’, must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly”²⁴ Here, the government has an opportunity to impose reasonable restrictions that are narrowly tailored, employ the least restrictive means necessary, and fall within the authorized exceptions under Article 19 of the ICCPR.²⁵

The UN Human Rights Committee has also recognized that laws that sweepingly criminalize expression of political, moral, and religious opinions are incompatible with Article 19.²⁶ Specifically, the Committee has stated that blasphemy laws must not “be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.”²⁷ The government’s codification of stringent penal law provisions that facially criminalize various forms of speech, including words that outrage or wound religious feelings,²⁸ thus conflicts with the government’s obligations under Article 19. As reflected in the practices of other Muslim-majority countries, and in the teachings of prominent Islamic scholars, criminal sanctions are not mandated. Instead, the government has the option to pursue targeted and proportional restrictions to guard against defamation of religion.

Moreover, under the ICCPR, the government is responsible for implementing “effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression.”²⁹ Nevertheless, Pakistan’s blasphemy laws are regularly used to censor political leaders, journalists, and the academic community, who have become frequent targets of threats, violence, and vigilante killings. These killings and attacks should be aggressively and promptly investigated and prosecuted, and individuals threatened based on blasphemy allegations must be afforded adequate protection.

Freedom of Religion and Minority Rights

In a speech to the Pakistan Constituent Assembly in 1947, Pakistan’s founding leader, Quaid-i-Azam Muhammed Ali Jinnah, stated:

You are free, you are free to go to your temples, you are free to go to your mosques or to any other place of worship in the State of

²⁴ General Comment 34, ¶ 35.

²⁵ General Comment 34, ¶ 34. Under Article 19, acceptable limitations on freedom of expression include restrictions that protect reputation rights, national security or public order, or health and morals. ICCPR, art. 19(2),(3).

²⁶ General Comment 34, ¶ 9.

²⁷ General Comment 34, ¶ 48.

²⁸ Pakistan Penal Code, §§ 295-A, 298.

²⁹ General Comment 34, ¶ 23.

Pakistan. You may belong to any religion or caste or creed—that has nothing to do with the business of the State Now, I think we should keep that in front of us as our ideal and you will find that in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense, because that is the personal faith of each individual, but in the political sense as citizens of the State.³⁰

Articles 20 and 33 of the Constitution protect the rights of citizens to “to profess, practice and propagate” their religion and require the government to discourage “parochial, racial, tribal, sectarian, and provincial prejudices among the citizens.”³¹ Articles 20 and 27 of the ICCPR similarly protect freedom of thought, conscience, and religion—and the freedom to profess and practice one’s religion without discrimination.³²

Despite Pakistan’s founding principle of religious tolerance, as codified in its Constitution, the blasphemy provisions have increasingly been used to arrest and prosecute religious minorities and to outlaw minority religious practices. While Christians, Ahmadis, and Hindus represent a small percentage of the Pakistani population, they constitute a large proportion of the blasphemy defendants in recent years.³³ Additionally, the statutory language effectively criminalizes the practice of the Ahmadi religion, prohibiting the minority sect from engaging in basic speech and conduct, such as referring to their place of worship as a “masjid.”³⁴ According to reports, 18 Ahmadis were arrested in 2013 due to practice of their faith.³⁵

The UN Human Rights Committee, which concluded that blasphemy laws are incompatible with the ICCPR except in narrow circumstances, emphasized that it is “impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers.”³⁶ It is essential that the government uphold its founding principle of religious tolerance and protect the rights of religious minorities to practice their religions without fear of being targeted, killed, imprisoned, or sentenced to death.

³⁰ QUAID-I-AZAM MOHAMMED ALI JINNAH: SPEECHES & STATEMENTS 1947-1948, 28–29 (Oxford Univ. Press 1989).

³¹ Pakistan Constitution, arts. 20, 33.

³² See ICCPR, arts. 20, 26. The protections afforded under Article 20 include the “freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”

³³ *Policing Belief*, at 6.

³⁴ Pakistan Penal Code, § 298-B(1)(d).

³⁵ U.S. Dep’t of State, Pakistan 2013 International Religious Freedom Report, at 1 (2013), available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm>.

³⁶ General Comment 34, ¶ 48.

The Right to a Fair Trial and Due Process

Article 10A of Pakistan’s Constitution guarantees that “in any criminal charge against him a person shall be entitled to a fair trial and due process.”³⁷ Article 14 of the ICCPR elaborates on this general right, setting forth a comprehensive constellation of rights, including the right to a fair and public hearing by a competent and independent tribunal, the right to be presumed innocent until proven guilty, the opportunity to prepare a defense and communicate with counsel, the opportunity to defend oneself through meaningful legal assistance, and the right to examine witnesses and to bring witnesses on one’s behalf.³⁸ According to the UN Human Rights Committee, “The presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge”³⁹ In conjunction with this burden, the accused must be afforded “adequate time and facilities for the preparation of their defense” including the right to present evidence and access evidence that will be used at trial or is exculpatory in nature.⁴⁰

Under Pakistan’s existing scheme, many blasphemy charges and prosecutions have failed to afford defendants basic due process protections. Due to the absence of clearly defined violations, intent requirements, evidentiary standards, and procedural safeguards, the current statutory language leaves many loopholes, which have proven susceptible to abuse. Up until the passage of a 2004 amendment, the police were not required to investigate blasphemy charges and could rely solely on accusations.⁴¹ Unfortunately, despite the adoption of the amendment, it has been reported that the police still lack the capacity and/or the will to investigate blasphemy accusations before bringing charges.⁴² Moreover, the police can file charges and arrest an individual without a warrant.⁴³

Judges have similarly failed to hear evidence, allow defense counsel to present a defense, or prohibit intimidation tactics in the courtroom.⁴⁴ As a result, blasphemy trials have frequently been governed by unsubstantiated accusations and intimidation tactics rather than legal process, affording officials excessive discretion while depriving the laws at issue and any resulting

³⁷ Pakistan Constitution, art. 10A.

³⁸ See ICCPR, art. 14.

³⁹ Human Rights Committee General Comment 32, Right to Equality Before Courts and Tribunals and to a Fair Trial, General Comments under Article 14 of the International Covenant on Civil and Political Rights, U.N. Doc. CCPR/C/GC/32 (2002), ¶30 [hereinafter General Comment 32].

⁴⁰ General Comment 32, ¶¶ 32-33.

⁴¹ *Policing Belief*, at 75.

⁴² *Policing Belief*, at 75.

⁴³ Freedom House, *The Ravages of Pakistan’s Blasphemy Laws* (Aug. 28, 2012).

⁴⁴ See *Policing Belief*, at 83; Andrew Buncombe and Umar Aziz, *Pakistani lawyer Rashid Rehman murdered after taking on blasphemy case*, THE INDEPENDENT (May 8, 2014), <http://www.independent.co.uk/incoming/pakistani-lawyer-rashid-rehman-murdered-after-taking-on-blasphemy-case-9341021.html>.

convictions of legal legitimacy.⁴⁵ Such procedures run counter to the admirable goals of tolerance and unity envisioned during Pakistan's formation.

The aggressive enforcement of the blasphemy provisions has also resulted in a hostile environment in which defense attorneys have been targeted, threatened, and killed.⁴⁶ These intimidation tactics prevent defense counsel from meaningfully representing their clients and preempt a fair and legitimate adjudication of the charges. According to the Human Rights Commission of Pakistan, this escalating environment of intimidation and impunity has resulted in "a systematic denial of legal representation to the accused."⁴⁷ As recognized under the UN Basic Principles on the Role of Lawyers, lawyers play a crucial role in maintaining the rule of law and the government must uphold its responsibility to protect lawyers from unlawful interference with their work.⁴⁸ Lawyers must be able to carry out their profession freely and independently, and without threats and intimidation.⁴⁹ The government is responsible for ensuring that all persons, irrespective of the crime for which they are accused, have access to meaningful legal representation and a fair trial, adjudicated by a competent, independent, and impartial tribunal.⁵⁰ Moreover, defamation can be adequately addressed without imposing criminal sanctions.

The current provisions include prison sentences that range from one year to life imprisonment and the death penalty for individuals convicted of making derogatory remarks about the Prophet Mohammed.⁵¹ By imposing capital punishment for certain blasphemy crimes, Pakistan remains an exception among other Muslim-majority countries, the large majority of which do not impose such severe penalties.⁵² The government's severe approach is further exacerbated by its frequent issuance of death sentences and the recent suspension, at least in part, of its moratorium on the death penalty.

⁴⁵ *Policing Belief*, at 75.

⁴⁶ See *Policing Belief*, at 71-72; Andrew Buncombe and Umar Aziz, *Pakistani lawyer Rashid Rehman murdered after taking on blasphemy case*, THE INDEPENDENT (May 8, 2014), <http://www.independent.co.uk/incoming/pakistani-lawyer-rashid-rehman-murdered-after-taking-on-blasphemy-case-9341021.html>.

⁴⁷ Human Rights Commission of Pakistan, *HRCP Slams Threat to Lawyer Representing Blasphemy Accused: HRCP* (April 10, 2014).

⁴⁸ United Nations, *Basic Principles on the Role of Lawyers*, Art. 16, U.N. Doc. A/CONF.144/28/Rev.1 (1990), ¶¶ 16-17 [hereinafter *Basic Principles on the Role of Lawyers*].

⁴⁹ *Basic Principles on the Role of Lawyers*, ¶ 16.

⁵⁰ See General Comment 32, ¶ 19.

⁵¹ Pakistan Penal Code, § 295-C.

⁵² Umar Cheema, *Only 5 States Have Tough Blasphemy Laws*, THE NEWS (Jan. 12, 2011), <http://www.thenews.com.pk/article-9222-Only-5-states-have-tough-blasphemy-laws>; *Policing Belief*, at 4.

Pursuant to Article 6 of the ICCPR, the death penalty shall be restricted and imposed for only the most serious crimes.⁵³ According to the UN Human Rights Committee, “imprisonment is never an appropriate penalty for defamation crimes.”⁵⁴ The enforcement of severe sentences, absent basic procedural safeguards, only magnifies the injustices imposed on criminal defendants falsely accused and charged with crimes that do not cause physical threat or injury. The government must ensure that punitive measures constitute “the least restrictive” means “to achieve their protective function.”⁵⁵

CONCLUSION AND RECOMMENDATIONS

The Association acknowledges the government’s strong interest in preserving religious respect and urges the government to revise its blasphemy laws and policies in a manner that upholds that respect while simultaneously protecting basic human rights, maintaining the integrity of its criminal justice system, and advancing constitutional mandates. The Constitution expressly prohibits the adoption or enforcement of any laws that abridge fundamental rights conferred under Chapter 1.⁵⁶ For the reasons stated above, the Association echoes the recommendation of the Human Rights Commission of Pakistan to take “meaningful” steps to address and alleviate the current climate.⁵⁷ Specifically, the Association respectfully urges the government to take the following actions:

- amend its blasphemy provisions to incorporate adequate safeguards for freedom of speech, freedom of religion, and due process, in conformity with the Constitution and international law;
- eliminate criminal penalties for blasphemy, in particular prison sentences and the death penalty;
- initiate a review of all pending blasphemy proceedings and convictions to guarantee compliance with domestic and international fair trial and due process standards;
- implement meaningful security measures to ensure the safety of defendants, defense attorneys, judges, minority communities, and other “at risk” individuals and groups;

⁵³ ICCPR, art. 6(2).

⁵⁴ General Comment 34, ¶ 47.

⁵⁵ General Comment 34, ¶ 34.

⁵⁶ Pakistan Constitution, art. 8(1), (2).

⁵⁷ See Human Rights Commission of Pakistan, *Attack on Blasphemy Accused at Adiala Appalling: HRCP* (Sept. 26, 2014).

- implement effective accountability measures to prevent and address threats and attacks directed at individuals accused of blasphemy by establishing a legitimate reporting mechanism and by actively investigating and prosecuting such crimes.

Respectfully,



Debra L. Raskin

cc: H.E. Mr. Mamnoon Hussain
President of the Islamic Republic of Pakistan
c/o Embassy of the Islamic Republic of Pakistan to the United States
3517 International Court NW
Washington, DC 20008

The Honorable John F. Kerry
Secretary of State
United States Department of State
2201 C St. NW
Washington, DC 20520

The Honorable Sarah Sewall
Under Secretary of State for Civilian Security, Democracy, and Human Rights
United States Department of State
2201 C St. NW
Washington, DC 20520

The Honorable Tom Malinowski
Assistant Secretary of State for Democracy, Human Rights and Labor
United States Department of State
2201 C St. NW
Washington, DC 20520

The Honorable Nisha Desai Biswal
Assistant Secretary of State for South and Central Asian Affairs
United States Department of State
2201 C St. NW
Washington, DC 20520